



WASHINGTON STATE LEGISLATURE

Joint Committee on Pension Policy

2420 Bristol Court S.W., Suite 101 – P.O. Box 40914

Olympia, WA 98504-0914

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October 16, 2002

9 AM - 1 PM

REVISED AGENDA

Senate Conference Room A, Olympia

9 AM (1) Executive Session on Personnel Issues

Senate Hearing Room 4, Olympia

10 AM (2) Personnel Committee Report – Senator Karen Fraser

10:30 AM (3) Definition of “Veteran” Study (Ch 292, L 02) – David Pringle

11 AM (4) Legislation
(a) EMTs into LEOFF, David Pringle
(b) SERS and PERS Membership and Service Credit, Robert Baker
(c) Elected Officials Opt In/Opt Out, David Pringle
(d) Age 70 1/2, David Pringle
(e) \$150,000 Death Benefit, Robert Baker
(f) TRS 1 Extended School Year, Robert Baker

Persons with disabilities needing auxiliary aids or services for purposes of attending or participating in Joint Committee on Pension Policy meetings should call (360) 753-9695. TDD 1-800-635-9993

Senators: Don Carlson, Chair; Karen Fraser; Harold Hochstatter; Ken Jacobsen; Debbie Regala; Linda Evans Parlette; Harriet Spanel; Shirley Winsley
Representatives: Steve Conway, Vice Chair; Gary Alexander; Glenn Anderson; Mike Cooper; Jerome Delvin; Bill Fromhold; Cheryl Pflug; Geoff Simpson



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October 16, 2002

Lieutenant Governor Brad Owen, President of the Senate
The Honorable Frank Chopp, Speaker of the House of Representatives

The attached report title “Definition of “Veteran” Study” has been adopted by the Joint Committee on Pension Policy as the report mandated in section 11, Chapter 292, Laws of 2002.

The study examines expanding the definition of veteran that is currently used for military service credit eligibility in the Public Employees’ Retirement System plan 1 (PERS 1) to match a definition created in Chapter 292, Laws of 2002 for non-retirement system purposes. An estimate of the number of additional members and retirees that would become eligible for military service credit in PERS 1 is included in the report, as are estimates of the accompanying actuarial costs.

Sincerely,

Senator Don Carlson, Chair
Joint Committee on Pension Policy

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Joint Committee on Pension Policy

Proposed Veteran Definition Motion

I move that the Joint Committee on Pension Policy refer the report titled "Definition of Veteran Study" to the legislature in fulfillment of the mandate of Chapter 292, Laws of 2002, section 11.

Definition of “Veteran” Study

Legislative Mandate

The higher education coordinating board and the joint committee on pension policy shall each conduct a study as to the eligibility of veterans for benefits provided, respectively, by higher education and the state retirement system if the definition of veteran is modified in the manner provided in section 2 of the act and report their findings to the legislature by December 1, 2002. C 292 L 02 sec. 11.

Issue

A new definition of veteran was adopted by the 2002 legislature for certain purposes such as civil service exam scoring, license plates, county indigent aid, alms houses, and county burials. Unlike the definitions of veteran used in Public Employees Retirement System plan 1 (PERS 1) and the Washington State Patrol Retirement System (WSPRS), the 2002 definition includes peacetime veterans, certain members of the national guard and reserves, and those who served in the Philippine Armed Forces or Scouts during World War II. The legislation included the study language above requiring the Joint Committee on Pension Policy to study the effect of using the new definition in the state retirement systems.

Background

There are two distinct types of military service credit in the Washington State Retirement Systems, and are normally referred to as "interruptive" and "prior" military service credit.

Interruptive service credit is available in most of the plans of the Washington State Retirement Systems, but only for periods of military service that interrupt a member's career in public service. To be considered interruptive service, a member must apply for re-employment with their previous public employer within 90 days of their honorable discharge.

A member claiming interruptive service credit in PERS plan 2, for example, must pay employee contributions for the period of interruptive military service within five years of resumption of public employment, but a member of PERS 1 may claim military service credit if eligible without making employee contributions for those periods.

Prior military service credit is available to qualified members of the Public Employees Retirement System, plan 1 (PERS 1). For PERS 1 members with 25 years of service credit, up to five years of military service performed prior to their Washington State Retirement Systems-covered career may be claimed for service credit. Under somewhat different terms prior military service is also available under the benefits available to members who enter the Washington State Patrol Retirement System (WSPRS) prior to January 1, 2003 and earn 25 years of service credit.

Only some types of military service qualify for prior military service credit. In RCW 41.04.005, applicable to PERS 1 and the pre-LEOFF police and fire pension acts, the definition does not include many peacetime veterans, or those that served in the reserves or National Guard. In RCW 41.06.150(20), applicable to WSPRS, qualified veterans include some with service in the National Guard and those with both peacetime and reserve service in the Armed Forces of the United States.

Interruptive military service credit is available to members of the pre-LEOFF Fireman's Relief and Pension 1947 Act plan (RCW 41.16.220) and the pre-LEOFF Police Relief and Pensions in First Class Cities plan (RCW 41.20.030). Service meeting the RCW 41.04.005 definition (included in Appendix A) is eligible for this interruptive military service. Only members that were not employed after the start of LEOFF 1 in March 1, 1970 remained in the pre-LEOFF police and fire plans.

ESB 5626 introduced a broader definition of veteran for purposes such as civil service exam preferences, free license plates, and other county services. Veterans added by the ESB 5626 section 2 to the PERS 1 veteran definition include members of the regular branches that did not serve during a time of war, that served in the reserves, national guards, or coast guard and who either fulfilled their initial military service obligation or served for 180 days under "presidential select reserve call."

Analysis

According to the Department of Veteran's Affairs there are approximately 670,000 veterans of the branches of the armed forces of the United States in Washington State. Of this total population 179,000, or 27%, are peacetime veterans. In addition to those in the federal branches, there are about 8,000 active and 2,500 retired members of the Washington Army and Air National Guard.

Estimated population of veterans in Washington State	
<i>Source: Washington State Department of Veteran's Affairs, 2002</i>	
Armed Forces of the United States, with wartime service:	491,000
Armed Forces of the United States, without wartime service:	179,000
Washington National Guard (army and air)	10,500
Total:	680,500

The Office of Financial Management population projection for Washington as of April 1, 2002 is 6,041,700, suggesting that under a broad definition that includes all those veterans recognized by the Department of Veteran's Affairs, approximately 11% of Washington residents are veterans.

Estimating the number of additional veterans that might be eligible for PERS 1 prior military service credit is hindered by limited information. The number of members of PERS 1 with particular types of military service is unknown. Any effect on other systems such as WSPRS or the pre-LEOFF police and fire plans is likely to be very small in comparison to PERS 1.

One method that can be used is to compare the total veterans in the state to the number of peacetime veterans plus National Guard members, and then apply the difference to estimate the number of additional veterans that might be eligible for prior military service credit.

The 1996 to 2001 Experience Study conducted by the Office of the State Actuary found that forty-eight percent of males and one percent of females retiring with 25 or more years of service were eligible for military service credit. Males had an average of 37 months, and females an average of 35 months of military service.

Estimated Costs

As the number of members of the state retirement systems with certain types of military service can only be estimated and the study is of a hypothetical change of the veteran definitions, only an estimated cost can be provided.

Currently, there are approximately 24,000 active and 54,000 retired members in PERS 1. If the more inclusive definition of veteran from section 2 of ESB 5626 was used for determining eligibility for the remaining active members of PERS 1, 19 percent more male PERS 1 members would receive 37 months of military service credit. There would be a less than 1 percent change in the number of qualifying veterans amongst female PERS 1 members. This change would increase the employer contribution rate for PERS and SERS by 0.01 percent, generating an estimated cost of \$437,000 to the general fund and \$817,000 for local government for the 2003-2005 biennium.

If the more inclusive definition was also applied for future benefit payments to the retired population of PERS 1, the employer contribution rate for PERS and SERS would increase by 0.07 percent, generating an estimated cost of \$3.1 million to the general fund and \$5.7 million for local governments for the 2003-2005 biennium.

Appendix A

Definition of veteran for the Public Employees' Retirement System, Plan 1:

RCW 41.04.005 "Veteran" defined for certain purposes. (1) As used in RCW 41.04.005, 41.16.220, 41.20.050, 41.40.170, and 28B.15.380 "veteran" includes every person, who at the time he or she seeks the benefits of RCW 41.04.005, 41.16.220, 41.20.050, 41.40.170, or 28B.15.380 has received an honorable discharge or received a discharge for physical reasons with an honorable record and who meets at least one of the following criteria:

(a) The person has served between World War I and World War II or during any period of war, as defined in subsection (2) of this section, as either:

(i) A member in any branch of the armed forces of the United States;

(ii) A member of the women's air forces service pilots;

(iii) A U.S. documented merchant mariner with service aboard an oceangoing vessel operated by the war shipping administration, the office of defense transportation, or their agents, from December 7, 1941, through December 31, 1946; or

(iv) A civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946; or

(b) The person has received the armed forces expeditionary medal, or marine corps and navy expeditionary medal, for opposed action on foreign soil, for service:

(i) In any branch of the armed forces of the United States; or

(ii) As a member of the women's air forces service pilots.

(2) A "period of war" includes:

(a) World War I;

(b) World War II;

(c) The Korean conflict;

(d) The Vietnam era[, which] means:

(i) The period beginning on February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period;

(ii) The period beginning August 5, 1964, and ending on May 7, 1975;

(e) The Persian Gulf War, which was the period beginning August 2, 1990, and ending on the date prescribed by presidential proclamation or law;

(f) The period beginning on the date of any future declaration of war by the congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the congress; and

(g) The following armed conflicts, if the participant was awarded the respective campaign badge or medal: The crisis in Lebanon; the invasion of Grenada; Panama, Operation Just Cause; Somalia, Operation Restore Hope; Haiti, Operation Uphold Democracy; and Bosnia, Operation Joint Endeavor. [2002 c 292 § 1; 2002 c 27 § 1; 1999 c 65 § 1; 1996 c 300 § 1; 1991 c 240 § 1; 1984 c 36 § 1; 1983 c 230 § 1; 1982 1st ex.s. c 37 § 20; 1969 ex.s. c 269 § 1.]

NOTES:

Reviser's note: This section was amended by 2002 c 27 § 1 and by 2002 c 292 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--1983 c 230: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1983." [1983 c 230 § 3.]

Effective date--Severability--1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Copy of Z-0145.1/03 by LL:ads provided on 10/8/02.

Brief Description: Allowing certain emergency medical technicians to transfer service credit.

Page and line numbering may vary depending on the printer used.

ELECTRONIC TRANSMITTAL

1 AN ACT Relating to retirement benefits for emergency medical
2 technicians; adding a new section to chapter 41.26 RCW; and providing
3 an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.26 RCW
6 under the subchapter heading "plan 2" to read as follows:

7 (1) An employee who is eligible for membership and was a member of
8 the public employees' retirement system while employed providing
9 emergency medical services for a city, town, county, or district and
10 whose job was relocated from another department of a city, town,
11 county, or district to a fire department has the following options:

12 (a) Remain a member of the public employees' retirement system; or
13 (b) Leave any service credit earned as a member of the public
14 employees' retirement system in the public employees' retirement
15 system, and have all future service earned in the law enforcement
16 officers' and fire fighters' retirement system plan 2, becoming a dual
17 member under the provisions of chapter 41.54 RCW; or

1 (c) Make an election, filed in writing with the department of
2 retirement systems, to transfer service credit previously earned as an
3 emergency medical technician for a city, town, county, or district in
4 the public employees' retirement system plan 1 or plan 2 to the law
5 enforcement officers' and fire fighters' retirement system plan 2 as
6 defined in RCW 41.26.030. Service credit that a member elects to
7 transfer from the public employees' retirement system to the law
8 enforcement officers' and fire fighters' retirement system under this
9 section shall be transferred no earlier than five years after the
10 effective date the member elects to transfer, and only after the member
11 earns five years of service credit as a fire fighter following the
12 effective date the member elects to transfer.

13 (2)(a) A member who elects to transfer service credit under
14 subsection (1)(c) of this section shall make the payments required by
15 this subsection prior to having service credit earned as an emergency
16 medical technician for a city, town, county, or district under the
17 public employees' retirement system plan 1 or plan 2 transferred to the
18 law enforcement officers' and fire fighters' retirement system plan 2.
19 However, in no event shall service credit be transferred earlier than
20 five years after the effective date the member elects to transfer, or
21 prior to the member earning five years of service credit as a fire
22 fighter following the effective date the member elects to transfer.

23 (b) A member who elects to transfer service credit under this
24 subsection shall pay, for the applicable period of service, the
25 difference between the contributions the employee paid to the public
26 employees' retirement system plan 1 or plan 2 and the contributions
27 that would have been paid by the employee had the employee been a
28 member of the law enforcement officers' and fire fighters' retirement
29 system plan 2, plus interest on this difference as determined by the
30 director. This payment must be made no later than five years from the
31 effective date of the election made under subsection (1)(b) of this
32 section.

33 (c) No earlier than five years after the effective date the member
34 elects to transfer service credit under this section and upon
35 completion of the payment required in (b) of this subsection, the
36 department shall transfer from the public employees' retirement system
37 plan 1 or plan 2 to the law enforcement officers' and fire fighters'
38 retirement system plan 2: (i) All of the employee's applicable

1 accumulated contributions plus interest and an equal amount of employer
2 contributions; and (ii) all applicable months of service, as defined in
3 RCW 41.26.030(14)(b), credited to the employee under this chapter for
4 service as an emergency services provider for a city, town, county, or
5 district as though that service was rendered as a member of the law
6 enforcement officers' and fire fighters' retirement system plan 2.

7 (d) Upon transfer of service credit, contributions, and interest
8 under this subsection, the employee is permanently excluded from
9 membership in the public employees' retirement system for all service
10 transfers.

11 NEW SECTION. **Sec. 2.** This act expires July 1, 2007.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:

CODE:

DATE:

BILL NUMBER:

Office of the State Actuary

035

02/07/02

HB 2896/SB 6781

SUMMARY:

This bill impacts members of the Public Employees' Retirement System Plan 2 (PERS 2) and the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 (LEOFF 2) by enabling emergency medical technicians whose jobs were transferred from non-LEOFF employer city, town or county departments to fire departments to move past service credit earned as an emergency medical technician in PERS 2 to LEOFF 2.

To move eligible past service credit from PERS 2 to LEOFF 2, an employee is required to make a payment to the retirement system to make up for the difference in contributions, plus interest, that the employee would have made had they been in LEOFF 2 for the PERS 2 service being transferred. The employees PERS 2 contributions plus interest, and an equal amount of employer contributions, are moved from PERS 2 to LEOFF 2 upon completion of the employee's required differential payment.

This act expires July 1, 2007.

Effective Date: 90 days after session.

BACKGROUND DISCUSSION:

A member who is employed by a department of a city or county government, like a health department, as an emergency medical technician will normally be a member of PERS. A member who is employed by a city or county fire department as a fire fighter and/or emergency medical technician may be a member of LEOFF 2. The difference is, in part, because the city or county health department is not an eligible employer for LEOFF 2.

If an employee's job has been moved from a health department to a fire department, for example through the reorganization of city or county services, they may have service credit for periods of their work as an emergency medical technician in each of PERS and LEOFF, entitling them to portability benefits from each plan under Chapter 41.54 RCW.

MEMBERS IMPACTED:

We have been provided data on 6 Camas County fire fighters and 16 Snohomish County medics who are now in LEOFF. Most have prior service in PERS 2. One has service in PERS 1, another is in LEOFF 1. Two others have cashed out their savings fund in PERS 2 and no longer have prior service with PERS 2. We do not have data on any other eligible members out of the 126,428 active PERS 2 members or the 13,133 active LEOFF 2 members.

EMT's into LEOFF

Description of 2002 Emergency Medical Technician Bills HB 2896/SB 6781

Background:

Emergency Medical Technicians (EMTs) employed by local governments in health departments or other similar divisions of local governments are members of the Public Employees' Retirement System (PERS). All employees first employed in PERS-eligible positions since 1977 have been enrolled in PERS plan 2/3, which allows for an unreduced retirement allowance at age 65.

Some EMTs have had their jobs moved from various departments in local government to fire departments. Upon meeting all the requirements to become fire fighters, such as training and passing applicable examinations, these EMTs employed at fire departments become members of the Law Enforcement Officers' and Fire Fighters' Retirement System plan 2 (LEOFF 2). Members of LEOFF 2 may retire with an unreduced allowance at age 53.

Two employers who have transferred EMTs are the City of Camas and Snohomish County. Twenty-one EMTs from these employers are now employed by fire departments and are in LEOFF 2, and most have prior service in PERS plan 2. The actuarial fiscal notes prepared for several versions of HB 2896 during the 2002 legislative session assess the cost impact for these employees under each bill. Several other employers were reported as considering a similar movement of EMTs to fire departments during the 2002 legislative session, and all versions of the bill would remain effective until July 1, 2007.

Age and Service Credit of Emergency Medical Technicians City of Camas and Snohomish County, 2001

Age	Number	Average years to unreduced retirement
25-29	1	24
30-34	2	20
35-39	1	18
40-44	7	11
45-49	7	6
50-53	5	3
54+	1	—

Members with years of service in each of PERS 2 and LEOFF 2 may currently utilize the portability provisions of state retirement law to combine years of service and average salary for purposes of retirement eligibility, but the retirement ages of each plan still apply to the benefit receivable from each plan.

Summary of Bill Versions:

HB 2896/SB 6781

EMTs whose jobs have been moved from a department of local government to a fire department and are now members of LEOFF 2 may apply to have any service credit earned as an EMT in PERS 2 to LEOFF 2.

An employee moving eligible service credit from PERS 2 to LEOFF 2 is required to pay to the retirement system the difference in contributions, plus interest, that would have been paid by the employee had their entire service been rendered in LEOFF 2. The employee shall complete this payment no later than five years from the date of their transfer or retirement, whichever comes first.

Upon completion of the employee's payment, the employee's contributions plus interest and an equal amount of employer contributions shall be transferred from PERS 2 to LEOFF 2. Any difference in employer contributions made to PERS 2 and the employer and state contributions that would have been made in LEOFF 2 become liabilities of LEOFF 2 and are incorporated into the LEOFF 2 contribution rates paid by all LEOFF 2 employees, employers, and the state.

This bill was passed by the house 88-9 on February 18, 2002.

SHB 2896

The substitute bill recommended by committee altered the amount that employers paid upon the employee's completion of their required payments for transferring service. In addition to the equal amount of employer contributions being transferred from PERS 2 to LEOFF 2, the employer is required to pay an amount sufficient to ensure that the contribution rates to LEOFF 2 do not increase due to the transfer of the employee's past service from PERS 2 to LEOFF 2. The employer is required to make this additional payment within five years of the employee's completion of their transfer payment.

Though recommended by the Appropriations Committee, the House of Representatives passed the original version of HB 2896.

Senate striking amendment S4874.2 to HB 2896

Amending the original bill, the striking amendment permitted both members of PERS 1 and PERS 2 to transfer past service into LEOFF 2. Employees electing to transfer service from PERS 1 or 2 to LEOFF 2 shall not retire with their transferred service under the terms of LEOFF 2 earlier than five years after the effective date the member elects to transfer service.

As in the original bill, employers have an equal amount of employer contributions transferred to LEOFF 2, and any difference in employer contributions made to PERS 2 and the employer and state contributions that would have been made in LEOFF 2 become liabilities of LEOFF 2 and are incorporated into the LEOFF 2 contribution rates paid by all LEOFF 2 employees, employers, and the state.

The Senate Ways and Means Committee adopted this amendment. No further action was taken.

All versions of the bill expire July 1, 2007.

Executive Committee Recommendation:

Permit Emergency Medical Technicians employed by fire departments who are members of LEOFF 2 and whose jobs were moved from a department of local government to transfer past service credit earned as a public EMT to LEOFF 2.

A member who elects to transfer eligible service credit earned in PERS 2 to LEOFF 2 must pay the difference in employee contributions between those made in PERS 2, and those that would have made in LEOFF2, plus interest. In addition, the service credit shall be transferred from PERS 2 to LEOFF 2 no earlier than five years following the effective date the member elects to transfer.

Upon transfer of the employee's service credit into LEOFF 2, an equal amount of employer contributions to employee contributions shall be transferred from PERS 2 into LEOFF 2. Any additional cost between the amount of employer contributions transferred from PERS 2 into LEOFF 2 and the value of the service moved into LEOFF 2 become liabilities of LEOFF 2 and are incorporated into the LEOFF 2 contribution rates to be paid by all LEOFF 2 employees, employers, and the state.

Copy of Z-0147.1/03 by LL:seg provided on 10/8/02.

Brief Description: Providing optional service credit for substitute service to members of the school employees' retirement system.

Page and line numbering may vary depending on the printer used.

ELECTRONIC TRANSMITTAL

1 AN ACT Relating to providing optional service credit for substitute
2 service to members of the school employees' retirement system; amending
3 RCW 41.35.010 and 41.35.030; and adding a new section to chapter 41.35
4 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 41.35.010 and 2001 c 180 s 3 are each amended to read
7 as follows:

8 The definitions in this section apply throughout this chapter,
9 unless the context clearly requires otherwise((÷)).

10 (1) "Retirement system" means the Washington school employees'
11 retirement system provided for in this chapter.

12 (2) "Department" means the department of retirement systems created
13 in chapter 41.50 RCW.

14 (3) "State treasurer" means the treasurer of the state of
15 Washington.

16 (4) "Employer," for plan 2 and plan 3 members, means a school
17 district or an educational service district.

1 (5) "Member" means any employee included in the membership of the
2 retirement system, as provided for in RCW 41.35.030.

3 (6)(a) "Compensation earnable" for plan 2 and plan 3 members, means
4 salaries or wages earned by a member during a payroll period for
5 personal services, including overtime payments, and shall include wages
6 and salaries deferred under provisions established pursuant to sections
7 403(b), 414(h), and 457 of the United States internal revenue code, but
8 shall exclude nonmoney maintenance compensation and lump sum or other
9 payments for deferred annual sick leave, unused accumulated vacation,
10 unused accumulated annual leave, or any form of severance pay.

11 (b) "Compensation earnable" for plan 2 and plan 3 members also
12 includes the following actual or imputed payments, which are not paid
13 for personal services:

14 (i) Retroactive payments to an individual by an employer on
15 reinstatement of the employee in a position, or payments by an employer
16 to an individual in lieu of reinstatement, which are awarded or granted
17 as the equivalent of the salary or wage which the individual would have
18 earned during a payroll period shall be considered compensation
19 earnable to the extent provided in this subsection, and the individual
20 shall receive the equivalent service credit;

21 (ii) In any year in which a member serves in the legislature, the
22 member shall have the option of having such member's compensation
23 earnable be the greater of:

24 (A) The compensation earnable the member would have received had
25 such member not served in the legislature; or

26 (B) Such member's actual compensation earnable received for
27 nonlegislative public employment and legislative service combined. Any
28 additional contributions to the retirement system required because
29 compensation earnable under (b)(ii)(A) of this subsection is greater
30 than compensation earnable under this (b)(ii)(B) of this subsection
31 shall be paid by the member for both member and employer contributions;

32 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
33 and 72.09.240;

34 (iv) Compensation that a member would have received but for a
35 disability occurring in the line of duty only as authorized by RCW
36 41.40.038;

37 (v) Compensation that a member receives due to participation in the

1 leave sharing program only as authorized by RCW 41.04.650 through
2 41.04.670; and

3 (vi) Compensation that a member receives for being in standby
4 status. For the purposes of this section, a member is in standby
5 status when not being paid for time actually worked and the employer
6 requires the member to be prepared to report immediately for work, if
7 the need arises, although the need may not arise.

8 (7) "Service" for plan 2 and plan 3 members means periods of
9 employment by a member in an eligible position or positions for one or
10 more employers for which compensation earnable is paid. Compensation
11 earnable earned for ninety or more hours in any calendar month shall
12 constitute one service credit month except as provided in RCW
13 41.35.180. Compensation earnable earned for at least seventy hours but
14 less than ninety hours in any calendar month shall constitute one-half
15 service credit month of service. Compensation earnable earned for less
16 than seventy hours in any calendar month shall constitute one-quarter
17 service credit month of service. Time spent in standby status, whether
18 compensated or not, is not service.

19 Any fraction of a year of service shall be taken into account in
20 the computation of such retirement allowance or benefits.

21 (a) Service in any state elective position shall be deemed to be
22 full-time service.

23 (b) A member shall receive a total of not more than twelve service
24 credit months of service for such calendar year. If an individual is
25 employed in an eligible position by one or more employers the
26 individual shall receive no more than one service credit month during
27 any calendar month in which multiple service for ninety or more hours
28 is rendered.

29 (c) For purposes of plan 2 and 3 "forty-five days" as used in RCW
30 28A.400.300 is equal to two service credit months. Use of less than
31 forty-five days of sick leave is creditable as allowed under this
32 subsection as follows:

33 (i) Less than eleven days equals one-quarter service credit month;

34 (ii) Eleven or more days but less than twenty-two days equals one-
35 half service credit month;

36 (iii) Twenty-two days equals one service credit month;

37 (iv) More than twenty-two days but less than thirty-three days
38 equals one and one-quarter service credit month; and

(v) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(8) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(9) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(10) "Membership service" means all service rendered as a member.

(11) "Beneficiary" for plan 2 and plan 3 members means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(12) "Regular interest" means such rate as the director may determine.

(13) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(14) "Average final compensation" for plan 2 and plan 3 members means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

(15) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(16) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(17) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(18) "Retirement allowance" for plan 2 and plan 3 members means monthly payments to a retiree or beneficiary as provided in this chapter.

(19) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work.

1 The department shall adopt rules and interpret this subsection
2 consistent with common law.

3 (20) "Actuarial equivalent" means a benefit of equal value when
4 computed upon the basis of such mortality and other tables as may be
5 adopted by the director.

6 (21) "Retirement" means withdrawal from active service with a
7 retirement allowance as provided by this chapter.

8 (22) "Eligible position" means any position that, as defined by the
9 employer, normally requires five or more months of service a year for
10 which regular compensation for at least seventy hours is earned by the
11 occupant thereof. For purposes of this chapter an employer shall not
12 define "position" in such a manner that an employee's monthly work for
13 that employer is divided into more than one position.

14 (23) "Ineligible position" means any position which does not
15 conform with the requirements set forth in subsection (22) of this
16 section.

17 (24) "Leave of absence" means the period of time a member is
18 authorized by the employer to be absent from service without being
19 separated from membership.

20 (25) "Retiree" means any person who has begun accruing a retirement
21 allowance or other benefit provided by this chapter resulting from
22 service rendered to an employer while a member.

23 (26) "Director" means the director of the department.

24 (27) "State elective position" means any position held by any
25 person elected or appointed to statewide office or elected or appointed
26 as a member of the legislature.

27 (28) "State actuary" or "actuary" means the person appointed
28 pursuant to RCW 44.44.010(2).

29 (29) "Plan 2" means the Washington school employees' retirement
30 system plan 2 providing the benefits and funding provisions covering
31 persons who first became members of the public employees' retirement
32 system on and after October 1, 1977, and transferred to the Washington
33 school employees' retirement system under RCW 41.40.750.

34 (30) "Plan 3" means the Washington school employees' retirement
35 system plan 3 providing the benefits and funding provisions covering
36 persons who first became members of the system on and after September
37 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

(31) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(32) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(33) "Index B" means the index for the year prior to index A.

(34) "Adjustment ratio" means the value of index A divided by index B.

(35) "Separation from service" occurs when a person has terminated all employment with an employer.

(36) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(37) "Classified employee" means an employee of a school district or an educational service district who is not eligible for membership in the teachers' retirement system established under chapter 41.32 RCW.

(38) "Substitute employee" means a classified employee who is employed by an employer exclusively as a substitute for an absent employee.

Sec. 2. RCW 41.35.030 and 1998 c 341 s 4 are each amended to read as follows:

Membership in the retirement system shall consist of all regularly compensated classified employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

(1) Persons in ineligible positions;

(2)(a) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit

1 applicable to such term or terms of office upon payment of the employee
2 contributions therefor by the employee with interest as determined by
3 the director and employer contributions therefor by the employer or
4 employee with interest as determined by the director: AND PROVIDED
5 FURTHER, That all contributions with interest submitted by the employee
6 under this subsection shall be placed in the employee's individual
7 account in the employee's savings fund and be treated as any other
8 contribution made by the employee, with the exception that any
9 contributions submitted by the employee in payment of the employer's
10 obligation, together with the interest the director may apply to the
11 employer's contribution, shall not be considered part of the member's
12 annuity for any purpose except withdrawal of contributions;

13 (b) A member holding elective office who has elected to apply for
14 membership pursuant to (a) of this subsection and who later wishes to
15 be eligible for a retirement allowance shall have the option of ending
16 his or her membership in the retirement system. A member wishing to
17 end his or her membership under this subsection must file on a form
18 supplied by the department a statement indicating that the member
19 agrees to irrevocably abandon any claim for service for future periods
20 served as an elected official. A member who receives more than fifteen
21 thousand dollars per year in compensation for his or her elective
22 service, adjusted annually for inflation by the director, is not
23 eligible for the option provided by this subsection (2)(b);

24 (3) Retirement system retirees: PROVIDED, That following
25 reemployment in an eligible position, a retiree may elect to
26 prospectively become a member of the retirement system if otherwise
27 eligible;

28 (4) Persons enrolled in state-approved apprenticeship programs,
29 authorized under chapter 49.04 RCW, and who are employed by employers
30 to earn hours to complete such apprenticeship programs, if the employee
31 is a member of a union-sponsored retirement plan and is making
32 contributions to such a retirement plan or if the employee is a member
33 of a Taft-Hartley retirement plan;

34 (5) Persons rendering professional services to an employer on a
35 fee, retainer, or contract basis or when the income from these services
36 is less than fifty percent of the gross income received from the
37 person's practice of a profession;

1 (6) Substitute employees, except for the purposes of the purchase
2 of service credit under section 3 of this act. Upon the return or
3 termination of the absent employee a substitute employee is replacing,
4 that substitute employee shall no longer be ineligible under this
5 subsection;

6 (7) Employees who (a) are not citizens of the United States, (b) do
7 not reside in the United States, and (c) perform duties outside of the
8 United States;

9 (~~(7)~~) (8) Employees who (a) are not citizens of the United
10 States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded
11 from membership under this chapter or chapter 41.04 RCW, (d) are
12 residents of this state, and (e) make an irrevocable election to be
13 excluded from membership, in writing, which is submitted to the
14 director within thirty days after employment in an eligible position;

15 (~~(8)~~) (9) Employees who are citizens of the United States and who
16 reside and perform duties for an employer outside of the United States:
17 PROVIDED, That unless otherwise excluded under this chapter or chapter
18 41.04 RCW, the employee may apply for membership (a) within thirty days
19 after employment in an eligible position and membership service credit
20 shall be granted from the first day of membership service, and (b)
21 after this thirty-day period, but membership service credit shall be
22 granted only if payment is made for the noncredited membership service
23 under RCW 41.50.165(2), otherwise service shall be from the date of
24 application.

25 NEW SECTION. Sec. 3. A new section is added to chapter 41.35 RCW
26 under the subchapter heading "provisions applicable to plan 2 and plan
27 3" to read as follows:

28 (1) A substitute employee who works five or more months of seventy
29 or more hours for which earnable compensation is paid in a school year
30 may apply to the department to establish membership after the end of
31 the school year during which the work was performed. The application
32 must:

33 (a) Include a list of the employers the substitute employee has
34 worked for;

35 (b) Include proof of hours worked and compensation earned; and

36 (c) Be made prior to retirement.

1 (2) Substitute employees who are members may apply to the
2 department to receive service after the end of the last day of
3 instruction of the school year during which the service was performed.
4 The application must:

5 (a) Include a list of the employers the substitute employee has
6 worked for;

7 (b) Include proof of hours worked and compensation earned; and

8 (c) Be made prior to retirement.

9 (3) If the department accepts the substitute employee's application
10 for service credit, the substitute employee may obtain service credit
11 by paying the required contribution to the retirement system. The
12 employer must pay the required employer contribution upon notice from
13 the department that the substitute employee has made contributions
14 under this section.

15 (4) The department shall charge interest prospectively on employee
16 contributions that are submitted under this section more than six
17 months after the end of the school year, as defined in RCW 28A.150.040,
18 for which the substitute employee is seeking service credit. The
19 interest rate charged to the employee shall take into account interest
20 lost on employer contributions delayed for more than six months after
21 the end of the school year.

22 (5) Each employer shall quarterly notify each substitute employee
23 it has employed during the school year of the number of hours worked
24 by, and the compensation paid to, the substitute employee.

25 (6) If a substitute employee, as defined in RCW 41.35.010(38),
26 applies to the department under this section for credit for earnable
27 compensation earned from an employer, the substitute employee must make
28 contributions for all periods of service for that employer.

29 (7) The department shall adopt rules implementing this section.

--- END ---

FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	02/07/02	HB 2433/SB 6573

SUMMARY:

This bill impacts the School Employees Retirement System by allowing substitute employees to purchase service credit.

Effective Date: Ninety days after session.

BACKGROUND DISCUSSION:

Substitutes for classified employees in school districts may earn service credit in the School Employees Retirement System if they work five or more months of during the year for which compensation for at least seventy hours per month is earned two years in succession.

Currently, by substituting on a frequent basis, a classified substitute employee may surpass the requirements to earn school employees' retirement system service credit. When this occurs, their employer must make the appropriate employer contributions to the retirement plan for the period during which the employee fulfilled those requirements. The substitute employee is also billed for the employee contributions for the same period. School districts are inconsistent with the application of these service credit rules.

While some substitutes may use this experience to work into a full-time position, others do not. Many substitutes withdraw their contributions after they terminate employment at the end of the school year. This causes administrative costs at the school districts and at the department. It also causes a financial burden to the substitute because they are assessed a 10% tax penalty for withdrawing.

MEMBERS IMPACTED:

Current classified substitutes who are members would be removed from membership. We currently have no information on the number of classified substitute employees. Those who opt to purchase service credit under this bill would be doing so with after-tax dollars rather than with pre-tax dollars as do regular members.

FISCAL IMPACT:

By excluding all substitutes from membership, except those who opt in voluntarily, the contribution rate could increase. The cost of the retirement system would be borne only by those receiving the benefits as school districts would no longer make contributions for those who receive no benefits. The total cost would not increase, however.



Joint Committee on Pension Policy

Membership and Service Credit

October 16, 2002

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Problem/Situation

Membership determinations for part-time, temporary, and substitute employees of Public Employee's Retirement System (PERS) and School Employee's Retirement System (SERS) are not consistent among employers and may not adhere to existing statutes and administrative codes. This may be the result of the complexity in the statutes and rules themselves.

JCPP Proposal to Study

At the December 2001 meeting of the Joint Committee on Pension Policy, a following motion to study the issue of membership and service credit was passed:

"The Joint Committee on Pension Policy moves that the issues of membership requirements and service credit related to substitute, temporary, and part-time employees in the Public Employees' Retirement System and the School Employees' Retirement System be studied during the 2002 interim."

Introduction

Each of Washington's state-administered retirement systems has distinct membership and service credit provisions (see Appendix A). These distinctions result from the nature of the employment covered by each plan. Membership in the SERS and PERS require a member to be in a position that normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned. These employers offer services that can be provided by full-time, part-time, seasonal, project, or intermittent workers, and membership rules accommodate those situations.

In PERS and SERS, membership for employees in eligible positions is mandatory. If a position is ineligible, the employee is not a member, receives no service credit, and neither they nor their employer make contributions. Temporary employees who are working in positions that do not exist on an on-going basis are ineligible. However, if a temporary employee is substituting for an employee in an eligible position, they are also eligible and must be reported.

Generally, PERS and SERS membership provisions were designed around the eligibility of positions, a prospective process. Within these rules, however, there is accommodation of individual employee's experience; a retroactive process.

Background:

Contrasting SERS and PERS Employers

School districts are distinct from most other public or private employers. The great majority of their full-time employees work 180 days per year. Full-time employees in non-educational agencies work 260 days per year. Many school districts have 7½ hour school days. Most other employers require their full-time employees to work an 8 hour work day. These distinctions were taken into account when the Teachers

Retirement System (TRS) membership and service credit requirements were designed. These distinctions have proven awkward, however, among school district's classified (non-teaching) employees. Many of these workers are in permanent part-time positions. Bus drivers, lunch-room attendants, and playground monitors, are among the classified employees who work every day, but may work for only part of the day. Other classified employees, administrative support staff and teachers aides, do work the entire school day. Classified employees are officially in non-teaching positions, and are, if they meet the membership requirements, members of PERS or SERS.

As a result of their permanent part-time status, many classified employees work considerably fewer hours during the school year than full-time employees. But as with teachers, if they are ill or absent, they need a substitute. These substitutes work even fewer hours during the year than the already modest number worked by those for whom they are substituting. This limited work time makes it difficult for substitutes to accumulate significant amounts of service credit.

Two Is Normal

Again, an employee of a SERS or PERS employer is a retirement plan member if they are employed in an eligible position. An eligible position is one that normally requires five or more months of service a year for which compensation for at least seventy hours per month is earned. Normally has been defined as being for two years in a row.

Determining Eligibility for Membership

When a PERS or SERS employer hires an individual, they determine whether the position is eligible for retirement system membership. For part-time or substitute employees this can involve predicting the amount an individual will work each month, and the duration or frequency of the employment. Employers have the responsibility of reporting these determinations to the Department of Retirement Systems (DRS), and for reviewing them. If a position has changed over time from ineligible to eligible, or if a review of the position reveals an error, then the employer and employee are required to make retroactive contributions from the date when the position became eligible.

Substitutes and Eligibility

A substitute employee in PERS or SERS is likely filling in for someone in an eligible position. As a result, they must be reported as members even though they have no reasonable expectation of continued employment. With this dynamic in mind, rules were established by DRS allowing SERS employers to create ineligible "substitute positions" for each eligible position. However, if the substitute does work 70 hours per month for 5 months during the school year, and they do this two years in a row for the same employer, they are eligible to be a SERS member.

Multiple Permanent Positions and Membership

In addition to a job changing over time, individuals may be employed in several short-term jobs with the same employer. An employee may work as both a playground monitor and a lunch-room attendant. If the combined hours from these jobs meets the standards, the employee is eligible for plan membership. This combining of job duties into a single position when determining membership status addresses the concern of employers dividing an individual's work into different jobs to prevent membership.

Administrative Practices Differ

For a variety of reasons, including employer size, turnover of administrative staff, and record-keeping complexity, employer policies differ on whether part-time or substitute workers are or are not included in PERS or SERS membership. Based on records collected in this study, it appears that some employers exclude all part-time and substitute workers from membership. Others appear to include them all.

Comparisons with Other Systems (CA, OR, ID, NV, Tacoma)

There are a large variety of public retirement systems and plans. The membership and service credit provisions within each of those plans can be quite distinct. This report chose to examine the membership and service provisions from neighboring states (Idaho and Oregon), the largest state employees system (California), one of the fastest growing states (Nevada), and a local municipal system (Tacoma). A detailed tabulation of this comparison can be found in Appendix B.

PERS and SERS Active Members and Annuitants

As of December 31, 2000 there were 47,725 active SERS members. A modest majority of SERS members were in plan 2, the traditional defined benefit plan. The remainder were in plan 3, the hybrid defined benefit - defined contribution plan. There were also over 126,000 PERS 2 members (see Figure 1).

Figure 1
PERS and SERS Active Member Demographics: 2000

	<u>PERS 2</u>	<u>SERS 2</u>	<u>SERS 3</u>
Members	12,6428	25,714	22,011
Average Age	43.1	45.7	45.2
Average YOS	7.9	6.2	7.5
Average Annual Salary	\$ 39,265	\$ 20,466	\$ 22,073

Because SERS has only been in existence since September, 2000, the great majority of classified school retirees are PERS members, from plans 1 and 2 (see Figure 2).

Figure 2
**PERS and SERS Annuitant Demographics
 by School Association: 2000**

	PERS 1		PERS 2		SERS 2
	Total	School	Total	School	
Annuitants	53,161	13,458	7,927	2,207	27
Current Age	73.1	67.9	69.4	66.8	64.8
YOS	20.5	17.9	11.6	11	14.7
Monthly Benefit	\$ 1,040	\$ 643	\$ 517	\$ 343	\$ 467

Lots of Early Terminations

Terminations from the 1995-2000 Experience Study illustrate the volume of workers who enter and leave public service. In PERS alone over 14,000 members terminated within the first year of employment – over 21,000 within their first 3 years (see Figure 3). Over 9,200 SERS members also terminated within the first 3 years.

Figure 3
Terminations by Years of Service by Employer: 1995-1998

Years of Service	PERS	TRS	SERS	LEOFF
0-1	14,338	1,723	6,286	303
2-3	6,854	1,682	2,945	131
Total Terminations	35,089	6,685	14,406	944

Probability of Termination by Years of Service by Employer

Years of Service	PERS	TRS	SERS	LEOFF
0	26%	10%	23%	10%
1	16%	10%	14%	5%
10	4%	2%	4%	2%

The majority of terminations in these plans occur in the first several years of employment. This is consistent with the career exploration phase of most worker's labor market experience and employer's use of part-time, seasonal, and substitute workers. The lowest rate of terminations in these first 3 years is among teachers, police officers, and fire fighters. These workers make their career decisions prior to employment thus eliminating an exploration element common among most other's career searches.

Being a Terminator (I'll not be back)

When an employee terminates, or is terminated, they are allowed to leave their contributions in the plan or withdraw them. If they leave their contributions in, and they have met the vesting requirements, they are terminated-vested members. If they leave their contributions in the system and have not met the vesting requirements, they are terminated non-vested. If they withdraw their contributions, they sever their membership, are not eligible for a benefit, and the amount withdrawn may be subject to a 10% penalty unless rolled into another tax-deferred retirement account.

So one of the costs to some part-time and substitute PERS and SERS employees is the 10% penalty if they withdrew their contributions and were not interested in rolling them into an IRA. For some employees this amount is insignificant; the cost to DRS to process the refund check (\$18-\$20) can be greater than the refund itself. For others, particularly those who qualified for membership, the penalty could be large. In this particular study, the SERS employee with the greatest potential penalty made \$831 in contributions. As a result, should they withdraw their contributions, the penalty could be \$83.10.

Other Penalties of Membership

More of a concern for some substitute employees may not be the possible 10% withdrawal penalty but rather the loss of eligibility to contribute pre-tax dollars to an Individual Retirement Account (IRA). Members of qualified retirement plans cannot make pre-tax contributions to an IRA but could make contributions to a Roth IRA.

Data On Hours Worked and Service Credit Examined

SERS and PERS hours and service credit data were gathered from DRS to allow an in-depth analysis of this issue. These data captured those who were hired and terminated within the study period (2000-2001 school year in SERS or calendar year 2001 in PERS), left their contributions in their plan, and were non-vested. To ease the reading of this report short-term terminated non-vested will be abbreviated to short-term.

This study will focus on those included in membership though they did not work at least 5 months for 70 hours of compensation per month.

Membership:

SERS Short-term Employees

Data on short-term SERS employees, those hired and terminated during the 2000-2001 school year, were examined to see if there were any marked differences by SERS employers. SERS employers include all 296 school districts and 9 educational service districts. These employers range in size from 1 SERS employee up to almost 2,000.

Overall, 944 short-term SERS members from 138 school districts terminated employment at the end of the 2000-2001 school year but left their contributions in SERS. That was 2.3% of total SERS employment at those school districts during the year (see Figure 4).

In examining the school districts with over 1,000 SERS employees, one stands out -- Evergreen School District. During the 2000-2001 school year, 129 short term SERS employees were hired by Evergreen School District and then terminated at the end of the school year. This was over 5 times the state average.

This does not mean that Evergreen School District used more short-term classified employees than other districts. It does mean that they enrolled these short-term classified employees in SERS. This also means that both the school district and the employees paid contributions to the retirement system.

Figure 4
**SERS Employment by Select School Districts
During the 2000-2001 School Year**

District/Employer	Total SERS Employment	Short Term	
		Number	Percent
Seattle SD 001	1,956	35	1.8%
Spokane SD 081	1,408	32	2.3%
Tacoma SD 010	1,345	16	1.2%
Kent SD 415	1,289	38	3.0%
Vancouver SD 037	1,276	33	2.6%
Evergreen SD 114	1,173	129	11.0%
Edmonds SD 015	1,049	26	2.5%
Federal Way SD 210	1,014	4	0.4%
Lake Washington SD	1,012	15	1.5%
Total all Employers*	40,939	944	2.3%

**only those with short-term SERS employees who terminated and did not withdraw their contributions.*

Enrollment

Membership in SERS is mandatory for all regularly compensated classified employees of a school district or educational service district. While it is likely that all these employees were in eligible positions, it is necessary to examine their records to determine whether their actual experience matched the month and hour membership requirements.

Note: *While this examination looked at one year of data, DRS rules on eligible positions define such positions as requiring five or more months of service a year for which regular compensation for at least seventy hours is earned for two consecutive years.*

350 Hours No Guarantee

Of the 944 short-term SERS members, 383 (over 40 percent) worked less than 350 hours (5 months × 70 hours per month) during the year examined. Posting more than 350 hours is still no guarantee that a worker met the eligibility standards because of the variety of means to reach that number. Classified substitutes' work hours may vary dramatically from month to month. In theory a substitute worker could post 100 hours a month for 4 months but only 50 hours per month thereafter; they could work 800 hours in one year without being eligible for plan membership. As a result, an examination was done of individual records to determine whether these members actually worked at least 5 months for 70 hours in each month. Of all those examined, 360 (38 percent) exceeded the membership standard. That means some 584 (almost 62 percent) did not work the minimum amount in the membership standards (see Figure 5). At the extreme, 31 worked less than the 8 hours considered a regular work day.

Figure 5
Short-term SERS Employees at Select Employers
by Membership Qualification: 2000 - 2001 School Year

District/Employer	Number	<70 hrs/month for 5 months	
		Number	Percent
Evergreen SD 114	129	123	95.3%
Highline SD 401	46	43	93.5%
Bellevue SD 405	38	20	52.6%
Kent SD 415	38	19	50.0%
Seattle SD 001	35	22	62.9%
Vancouver SD 037	33	24	72.7%
Clover Park SD 400	22	16	72.7%
Shoreline SD 412	18	13	72.2%
Renton SD 403	17	12	70.6%
Lakewood SD 306	14	14	100.0%
All Districts/Employers	944	584	61.9%

**only those with short-term SERS employees who terminated and did not withdraw their contributions.*

Of the 129 short-term SERS members from the Evergreen School District, 123 did not work at least 70 hours per month for 5 months. Of the 46 short-term SERS employees at Highline School District, 43 did not work the qualifying amount. And though the number was rather small, none of the short-term SERS employees at Lakewood School District worked 70 hours per month for 5 months.

SERS Cost\$

The cost of contributions for short-term terminated non-vested SERS members is two-fold: the cost to the employer and the cost to the employee. In the 2000-2001 school year, the employer contribution rate was 4.44% of pay and the employee contribution rate was 2.43% of pay. Total wages paid to these employees during the reference period was \$5.3 million. The total cost to school districts to make contributions for these short-term SERS members was over \$230,000 in the 2000-2001 school year (see Figure 6). On a per-district basis, again using only those 138 districts where the short-term members had been employed, the cost was about \$1,700 per year.

Figure 6
Wages and Contributions for Short-term SERS Employees
2000 - 2001 School Year

	Total	Average	Range
Wages paid	\$ 5,255,112	\$ 5,567	\$8–\$34,199
Employer Contributions	\$ 233,327	\$ 247	\$0.36–\$1,518
Employee Contributions	\$ 127,699	\$ 135	\$0.19–\$831

In terms of employee contributions, over \$41,000 in contributions were collected from those who did not work the qualifying amount during the 2000-2001 school year. There were 4 school districts where over \$2,000 in employee contributions were collected – Seattle, Bellevue, Kent, and Evergreen. A portion of these contributions could be described as unrealized wages.

PERS Short-term Employees

Hourly data were also examined for similar PERS 2 members who were hired and terminated during 2001. The numbers were much larger in PERS than SERS because of the larger number of PERS employers. These employers include municipalities, counties, state agencies, state hospitals, universities, colleges, utilities, and others.

During 2001 there were a total of 897 PERS 2 employers, 331 of which used short-term workers. As with SERS employers, their size was quite varied, from just two employees to over 11,902. These 331 employers had over 119,000 workers, with 3,675 or 3.1 percent being short-term employees -- a slightly higher ratio than SERS employers.

PERS Seasonal Employers Top the List

PERS and SERS employers differ in their use of short-term employees. The PERS employers that use the most significant numbers tend to be seasonal agencies (see Figure 7). Both the Department of Fish and Wildlife and the Parks and Recreation Commission reported a large share of short-term workers on their payrolls. The University of Washington used the largest number of these workers, though it was not a high percentage considering the overall size of their payroll. The same is true for Washington State University.

Figure 7
PERS 2 Employment by Select Employers: 2001

Employer	Total PERS 2 Employment	Short-term	
		Number	Percent
U of W	11,902	483	4.1%
DSHS	9,032	192	2.1%
Fish and Wildlife	1,430	128	9.0%
Parks and Recreation	489	113	23.1%
WSU	2,224	110	4.9%
Snohomish County	2,202	104	4.7%
DOT	4,427	97	2.2%
King County	5,710	81	1.4%
Energy Northwest	1,002	80	8.0%
Western State Hospital	1,814	77	4.2%
Total Employment*	119,083	3,675	3.1%

**only those employers employing short-term workers.*

Similar Rules in PERS and SERS

The membership rules in PERS 2 are the same as in SERS – an employee must be employed in an eligible position that normally requires 5 months with 70 hours compensation for those months in a 12 month period. In a one year period, that is a minimum of 350 hours of compensated work. Unlike the relatively small number of short-term SERS members, it is difficult to access the hourly records for each PERS member. As a result, estimates were made for the group in general.

Many Worked Less than Membership Standard

Of the 3,675 short-term PERS 2 members, 1,863 (a little over 50 percent) worked less than 350 hours during the year examined. As noted in the SERS discussion, posting more than 350 hours does not guarantee one of meeting the standard because of the variety of means to reach that number. A seasonal worker may post over 70 hours per month for four months but under 70 hours per month thereafter, thus not working the prescribed amount in the eligibility standard. As a result, the hours-membership relationship in SERS was used to approximate how many of these members in PERS 2 might work the amount in the plan's eligibility requirements.

In SERS, the greatest number of hours posted by a member who still had not worked 70 hours per month for 5 months was 770; above that level all members met the standard. Using 770 hours as the cutoff, and the ratio of workers between 350 and 770 hours results in an estimate of 2,484 out of the 3,687 short-term PERS 2 members having not worked at least 70 hours per month for 5 months (see Figure 8).

Figure 8
Estimate of Short-term PERS 2 Members
Who Worked Less than the Membership Standard: 2001

Hours	Number	<70 hr/month for 5 months	Percent	Number	<70 hr/month for 5 months	Percent
Under 350	383	383	100.0%	1,863	1,863	100.0%
350-770	363	201	55.4%	1,121	621*	55.4%
Over 770	198	0	0.0%	691	0	0.0%
Total	944	584	61.9%	3,675	2,484*	67.6%

*Estimate

Short-term PERS Employers

While half of these short-term PERS 2 members worked less than 350 hours, that experience differed by employer (see Figure 9). Of the 483 short-term PERS 2 members at the University of Washington, 296, or over 60 percent, worked under 350 hours. Almost 72 percent of the short-term workers at Washington State University failed to reach 350 hours. And 63 percent of these workers at DSHS did not reach 350 hours. At the extreme, 106 of these short-term workers posted 8 hours of work or less.

Figure 9
Short-term PERS 2 Employees
at Select Employers by 350 Hour Threshold: 2001

Employer	Short-Term	Under 350 Hours	
		Number	Percent
U of W	483	296	61.3%
DSHS	192	121	63.0%
Fish and Wildlife	128	63	49.2%
Parks and Recreation	113	51	45.1%
WSU	110	79	71.8%
Snohomish County	104	52	50.0%
DOT	97	33	34.0%
King County	81	46	56.8%
Energy Northwest	80	53	66.3%
Western State Hospital	77	36	46.8%
Total Employment	3,675	1863	50.7%

PERS Cost\$

As in SERS, the cost of contributions for short-term PERS members is two-fold: the cost to the employer and the cost to the employee. In 2001, the employer contribution rate averaged 2.99% of pay, and the employee contribution rate averaged 1.66%. Total wages paid to these employees was about \$21.5 million. As a result, the total cost of employer contributions for these short-term PERS members was over \$641,000 (see Figure 10). On a per-employer basis, again using only those 331 employers where the short-term members had been employed, the cost was relatively modest – \$1,936 per year.

Figure 10
Wages and Contributions for Short-term PERS 2 Employees: 2001

	Total	Average	Range
Wages Paid	\$ 21,451,265	\$ 6,837	\$0–\$40,316
Employer Contributions	\$ 641,393	\$ 175	\$0–\$1,205
Employee Contributions	\$ 356,091	\$ 97	\$0–\$669

Costs are a Wash for Most Employers

An employer (and the plan) has some employees who will not receive a retirement benefit, and some who will. Those who don't receive a retirement benefit will receive their contributions and interest (less a withdrawal penalty unless placed in a qualified retirement plan.) The total cost for employers is not affected by removing these employees from membership because the termination rates would be adjusted and the contributions rates would increase to reflect the lower salary base over which they are paid. The employer's contributions, regardless of whether they were made on behalf of an employee who terminated and withdrew their contributions, will actually fund the benefits of those who remain and do earn a retirement.

Employer contributions are not made to pay the benefits of any particular employee, but rather for the group of employees. The required contribution is expressed as a percentage of pay for all employees, even though only some of the employee's will receive a retirement benefit. However, if a particularly employer has a disproportionate number of members who receive only their contributions back, that employer will pay more relative to other employers for their employees who receive other plan benefits. How much more would require more analysis; however, this may be a minor cost compared to other experience differences between employers such as what age their employees are hired and retire.

Membership in Other Systems (CA, OR, ID, NV, Tacoma)

This report chose to examine the membership provisions from neighboring states, the largest state employees system, one of the fastest growing states, and a local municipal system.

Figure 11
Membership Provisions in Select Retirement Systems

System	Membership Eligibility Requirements
Washington PERS/SERS 2/3	Employed in an eligible position normally requiring five or more months per year of 70 or more hours of service. Persons in ineligible positions who earn more than 70 hours a month for 5 months per year for two consecutive years retroactively become members.
Washington TRS 2/3	Employed in an eligible position normally requiring five or more months of at least 70 hours during September through August.
California PERS	Permanent full-time
California STRS	Employed to perform creditable service on a full-time basis.
Idaho PERSI	General employees: 20 or more hours per week and employment for 5 or more consecutive months. Teachers: Half time or more and employment for 5 or more consecutive months.
Nevada PERS	A person who is employed ½ time or more by a participating public employer.
Oregon PERS	Work in a qualifying position for at least 600 hours in a 12-month period.
Tacoma Retirement	Permanent employees. Excludes those employed less than 90 days.

Idaho Similar

Membership requirements vary widely even in this limited comparison. Membership in the Public Employee's Retirement System of Idaho (PERSI) is the most similar to Washington's PERS and SERS, but PERSI provisions require 20 hours of work per week for 5 consecutive months (see Figure 11). This can be upwards of 440 hours of work -- not much more than the 350 hours in Washington's PERS and SERS -- but the consecutive months standard is more restrictive.

Tacoma Standards Easy

Probably the most lenient standard for membership in this study is that found in the Tacoma Employee's Retirement System. In this system one can be a member if they are a permanent employee and employed more than 90 days. Three months of continuous service translates into a maximum of 520 hours of work. But the requirement is only for permanent employment not necessarily full-time; therefore the standard is a bit more inclusive than the others in this study.

More Hours in Oregon

Oregon PERS membership requires 600 hours of compensated service in a 12 month period. Though this is a higher hourly standard compared to Washington's PERS and TRS, there is no months requirement. An employee could work 150 hours a month for 4 months, or 60 hours a month for 10 months, and be eligible. In this manner, Oregon PERS's membership requirement may be considered more lenient than Washington's.

Nevada Tougher Still

Nevada has a more stringent membership standard; a person must be employed $\frac{1}{2}$ time or more. In a regular state agency that is 1,040 hours (2,080 hours \div 2), and in a school system it is 720 hours (90 days \times 8 hours).

California Stringent

The most stringent standards for membership in this study are found in the California PERS and TRS systems. In each, membership is limited to those who are permanent full-time employees. This is not to say that part-time, seasonal, and temporary employees are left without some sort of retirement coverage. Those who are not permanent full-time employees when working for CalPERS or CalSTRS employers are offered membership in state sponsored defined contribution plans.

Service Credit:

Service credit in Washington's retirement plans is typically awarded by months of service. A full-time employee will earn 12 months of service credit in one years time. A full-time teacher will not work 12 months in a year, but will earn 12 months of service credit for working the prescribed number of hours in the school year (see Figure 12).

Figure 12
Service Credit Provisions In PERS, SERS and TRS

System	Service Credit
PERS SERS 2/3	90 or more hours per month = 1 month of service credit 70 to 90 hours per month = $\frac{1}{2}$ month service credit Less than 70 hours per month = $\frac{1}{4}$ month service credit
TRS 2/3	12 months full time credit is earned if member is employed in an eligible position or as a substitute teacher; works 9 months during the school year (Sept-August); and for at least 810 hours. 12 months of half time service earned if member is employed in an eligible position, works 9 months of the school year, and works between 630 and 810 hours.

Originally, service credit was not awarded for initial partial months of service. But most new employees are typically hired in the middle rather than on the first day of a month. As a result, under the old rules they would pay contributions but not receive service credit until the first whole month of employment. Amended statutes allowed new employee's initial partial month service to be calculated and credit allowed.

Little Work, Lots of Service Credit

These partial month service credit rules have since been interpreted to include all workers in most every part-time or part-month situation, not just the newly hired. As a result, there can be instances where large amounts of service credit may be awarded for very little work. It is not unusual for a worker to be employed just one day and be awarded 1/4 month of service credit. While these rules overstate the amount of time a member worked, they also understate their salary. This may result in workers retiring earlier than they would under a less generous system, but they do so with a lower benefit.

Figure 13
**Proportion of Service Credit Awarded Relative to Hours Worked
Among Short-Term SERS and PERS Members**

Service Credit Relative to Hours Worked	SERS		PERS	
	Number	Percent	Number	Percent
Less Than	82	8.7%	594	16.4%
Equal To	9	1.0%	96	2.7%
Greater Than	852	90.3%	2,930	80.9%
2 Times Greater	147	15.6%	187	5.2%

Based on the data collected for this study, over 90% of short-term SERS members earned service credit at a pace greater than their hours worked, and over 15% earned service credit at double the pace of a full-time worker (see Figure 13). These ratios are a bit lesser for the short-term PERS members – just over 80% earned service credit at a pace greater than their hours worked, and just over 5% earned service credit at double the rate of a full-time worker. For all the short-term employees examined in this study, SERS members earned service credit at an average of 1.4 times their actual hours worked, and PERS members earned service credit at an average of 1.1 times their actual hours worked.

Some Receive Less than Proportionate Credit

While the existing service credit rules are generous for the great majority of short-term workers, there are those who actually work more relative to the service credit they receive. There are numerous instances in this study where workers with 67 hours of work in a month, well over 1/3 of a month, were awarded 1/4 month of service credit. In this study nearly 9 percent of SERS short-term employees and over 16 percent of PERS short-term employees were awarded less service credit than would be warranted in a more proportionate system.

Service Credit in Other Systems (CA, OR, ID, NV, Tacoma)

In comparing Washington's service credit provisions with other systems in this study, it is apparent that Washington's are on the generous end of the spectrum.

Figure 14
Service Credit Provisions in Select Retirement Systems

System	Service Credit
California PERS	A full year of service credit is awarded for 10 full-time months (monthly pay employees); 215 days (daily pay employees); or 1,720 hours (hourly pay employees.) For lesser work, service credit proportionate.
California STRS	Service credit is calculated in the proportion that a member's earnings bears to the compensation that the member would have earned if he or she had been employed and worked full time in that position.
Idaho PERSI	15 days or more in a calendar month = 1 month service credit. Must be paid for 20 or more hours per week. Teachers must have at least a 50% contract to earn service credit. No parts of months calculations for service credit.
Nevada PERS	Non-school district employees earn service credit for years, months and days actually worked. School district employees receive a year of service credit for working a school year. Employment for part of the school year is credited on a ratio of one day worked/one and a third days service credit.
Oregon PERS	Members must be employed the majority of the month to receive one month of creditable service. No partial month credit. Teachers receive credit for two summer months if they work from Sept to Dec. They receive credit for the third summer month if they work the entire school year.
Tacoma TERS	2,080 hours = 1 service credit year Proportionate service credit based on hours worked.

Idaho Service Credit Most Similar

Idaho's service credit provisions most closely resemble those of Washington's PERS, SERS, and TRS is. In PERSI a member may earn 1 month of service credit if they work 15 days or more and are paid for 20 or more hours per week (see Figure 14); very similar to Washington's PERS / SERS provisions that require 90 hours of compensation per month to earn 1 month of service credit. A teacher may earn service credit in PERSI if they have at least a 50% contract. Where PERSI is more restrictive, however, is they award no partial months service credit.

No Partial Month Credit in Oregon

In Oregon a member must be employed the majority of the month to earn 1 month of service credit, and a teacher may earn 12 months of service credit if they work the entire school year. Also, Oregon does not award partial month service credit.

Proportional Service Credit

Partial service credit is awarded in the California, Nevada, and the Tacoma systems. In each of these systems, however, service credit is measured in years. So rather than parts of months, these systems award parts of years. Unlike Washington's systems, these systems award service credit on a proportionate basis – each system has a full-time standard, and however many months, days, hours, or earnings members accrue relative to that standard is how much service credit they are awarded.

So the awarding of service credit in Washington's PERS, SERS, and TRS systems is relatively more generous than the other systems examined in this study.

The TRS Service Credit Connection

Because they have the same employer as SERS members, Teacher's Retirement System membership and service credit provisions were also examined in this study. The one element that sets TRS 1 apart from the other retirement systems is it has a provision for members to purchase part-time service credit at their option.

A portion of a service credit year is given after the completion of a state fiscal year if: employment is less than 4/5ths of a school year; and the member files an application for service, provides proof of teaching service, and submits the necessary contributions by June 30 of the following school year in which the part-time service was rendered.

Following the submission of the application and contributions by the employee, the employer is billed for contributions by DRS.

Significance of the Issue to Policy:

Based on the collected data, many PERS and SERS employees enrolled in these retirement systems have not worked 70 hours per month for 5 months in a 12 month period. Was their enrollment improper? In general, no. The eligibility of a great majority of these positions is not in question. However, based on the large number of these workers, and admissions by school administrative staff, it is reasonable to conclude that a substantial minority were enrolled though ineligible.

Why would they be enrolled? This may be the result of the complexity of the plan membership rules and the difficulty of keeping records of those on infrequent work schedules. These factors may have resulted in an "Oh heck with it... put them all in" reaction from employers hoping to break even on the trade-off between contributions and administrative costs. These employers may believe they are erring in favor of the short-term employees, though retirement plan membership may not be what these employees want or need.

As a result, this issue ventures beyond the questions of compliance with membership and service credit rules, and employer and employee costs. As this issue primarily impacts workers who have relatively low wages and infrequent short periods of work, it broaches two greater questions:

Who should be in a retirement system?

**What level and kind of benefits should there be for short-term or substitute employees?
Should they include retirement benefits?**

Policy Analysis:

Who should be in a retirement system?

From its inception in 1947, PERS has had membership and service credit requirements that were relatively generous. Originally, membership consisted of all employees of the state whose service was at least 1,000 hours per year. Service credit was received if a member worked at least 10 days in a given month and six months in a given year. This less-than-full-time standard has been made even more generous. Public policy has been, evidently, to be as inclusive as possible in granting membership and service credit in these plans.

Select Legislative Changes to PERS

- 1955-57:** Legislation established the eligible position definition as "5 or more uninterrupted months of service for which regular compensation is paid."
- 1965-67:** Legislation allowed temporary persons hired into eligible positions who worked longer than six months in such a position to become members.
- 1971-72:** Probationary service credit could be claimed if member paid the 5% contribution for the period.
- 1976-77:** Legislation limiting membership in PERS to persons appointed to any committee, board, or commission who performed in such an appointment less than 10 days or 70 hours per month.
- 1977-79:** PERS 2 created. Service credit conditioned on working at least 90 hours per month.
- 1979-80:** Definition of service for PERS 1 was revised by eliminating the 10 day minimum leaving only the 70 hour per month requirement.

Plan Membership Theory

The desire for membership in a retirement plan is related to the employment expectations of each employee. If their job is a full-time position on a systematic career path, or if they simply have a full expectation of continued employment, the expectation of reaching retirement and membership in a retirement plan is reasonable. Even those employed in permanent part-time positions have a reasonable expectation of earning a retirement benefit, whether or not they eventually move to a full-time position. On the other hand, there are those employees who are merely filling in temporarily, be it for a seasonal peak or emergency situation, who have no expectation of continued employment; their inclusion in a retirement plan would be unnecessary. With this kind of membership continuum in mind it would be helpful to examine those employees who serve in temporary and substitute positions.

Short-term Characteristics

Employees who work temporarily, part-time, or as substitutes can be of many different types and different motivations. Some may be casual employees who may never seek full time employment with their employer, and might view contribution to a retirement plan that they will never benefit from as a burden.

It would be reasonable to say that many in temporary or substitute positions, be it in PERS or SERS, are secondary wage earners. They may also be retirees who desire a more casual employment situation. Many of these marginally attached workers would be particularly attracted to school employers, and tend to be relatively stable in their employment relationship. This may be for reasons of convenience. Those in families with school-age children may desire a relatively voluntary and flexible employment situation that can accommodate their family's needs. What better than to be employed during the same hours as when the children are in school.

Modest Employment Expectations

Other substitute employees may aspire to full-time employment and see substituting as a means to gain access and experience. These employees might view contributions and service credit, even on a sporadic basis, as an opportunity to begin building retirement benefits at an earlier point in their careers. According to the most recent portability data (August 2000 through August 2001) a total of 9,002 PERS and SERS members became members of TRS (see Figure 15). It is unknown how many PERS members were in teaching assistant positions, and how many changed their career path entirely, but its probably safe to assume that they were more likely the former than the latter. The number that moved from SERS to TRS membership was 270 – less than one per school district.

Figure 15
**Change of System Membership
PERS and SERS into TRS**

From	To	Number
SERS	TRS	270
PERS	TRS	8,732
Total		9,002

SERS and PERS Policies

So, what is the policy for PERS and SERS plan membership and service credit for part-time and substitute (marginally attached) employees?

Are these policies appropriate in light of evidence that some employers may be having compliance difficulties and in light of the other needs of these employees?

Current Policies Inclusive

As mentioned in the earlier analysis regarding who should be in a retirement plan, the policy is quite simple for those full-time, fully compensated employees who have a full expectation of continued employment. The policy of who should not be in a retirement system is also quite simple for those short-term, temporary employees who have no expectation of continued employment. Where the policy becomes somewhat more complex is for those employees between these extremes. Considering the relatively lenient standards (5 months @ 70 hours per month in a 12 month period) it is apparent that the current policy is to include in PERS and SERS membership those who have only a very modest attachment to the work force, this can easily include those who substitute for members in eligible positions, be they full-time or part-time.

Are These Policies Appropriate?

The membership and service credit policies in PERS and SERS are more inclusive than those systems compared in this study. Whether or not this policy of inclusion is appropriate is best answered by comparing the options, or lack of options, available to those short-term workers who find themselves members of PERS or SERS.

One Benefit Among Several

For the majority of public workers in Washington State, retirement is primarily a defined benefit (or a hybrid defined benefit – defined contribution in plan 3) earned for service rendered. Because of the age 65 retirement provision in Washington State's PERS and SERS plans 2/3, that service can be for as little as 5 years, if a member began their employment at a late age, or for over 40 years, if a member began their service in their early-20s.

Within public service, retirement is one benefit out of a variety of benefits which include, annual leave, sick leave, paid holidays, dental and health care. These benefits are primarily available to full-time public employees. Workers in part-time or substitute positions rarely receive these benefits. Some substitute teachers may receive a pro-rated form of health care benefits depending on their total hours or days of work in the school year, and depending on their school district, but that is not necessarily the case for SERS substitutes or PERS temporary workers.

Retirement a Reasonable Benefit?

Of course some benefits received by full-time workers may be nonsensical for substitutes – sick leave and annual leave for instance. In this question of appropriate benefits, retirement must be questioned as well. For part-time or substitute workers, the prospects of earning a significant retirement benefit under a defined benefit system are constrained by the very nature of their employment situation – low wages and short/sporadic service.

Defined Contribution or Deferred Compensation May Be Better Fit

If it is decided that those meeting the minimum criteria should have a retirement benefit, does a defined benefit provide these members the best value? Or would they be better served by a defined contribution retirement (as in Cal STRS) or a deferred compensation program? One could argue that a defined contribution retirement would better serve those with low-wage, short-term or sporadic employment patterns; the contributions are a simple percent of pay, vesting can be immediate, portability is greater, and the question of service credit is eliminated. Deferred compensation, while not as attractive as a defined contribution, would provide a savings vehicle and, again, eliminate the issue of service credit.

Issues Addressed by Individual Choice

Retaining a defined benefit retirement program and giving substitutes the option to purchase service credit after the end of the year is also a possible benefit for short-term and substitute PERS and SERS workers. This would emulate the optional purchase of service credit available to TRS members who substitute teach. This would allow for individual choice based on the variety of employment circumstances and desires of the workers.

Proposals:

1. ***Raise membership and service credit standards.***

Increase the hours per month membership standard (80 or 90 hours per month for 5 months in a 12 month period) or simplify it to an minimum number of hours per year (500-600 hours in a 12 month period). The standard would be based on a fraction of full-time work (2,080 hours per year for general employees and 1,440 hours for school employees.) By raising the membership standard, the retirement system would not be capturing part-time, seasonal, or substitute workers who work a minimal amount and have no desire to be in a retirement plan.

Service credit standards could also be changed to accommodate the new membership standards. For instance, if the hourly standard was 520 hours per year ($\frac{1}{4}$ of the year) that would warrant 3 months of service credit - the minimum that could be earned. Those working a greater amount would earn proportionately more with rounding to the nearest $\frac{1}{4}$ month.

This approach would require only modest legislative action. However, it may not ease the difficulty some school districts have administering the membership and service credit rules.

2. ***Allow the purchase membership and service credit to classified and substitute employees similar to that of substitute teachers.***

Institute the same membership and service credit procedure used for substitute teachers. At the end of each school year substitute teachers may opt to purchase the service credit warranted by the hours they worked. As a voluntary approach, this would eliminate those from plan membership who don't qualify and those who don't wish to participate. As in TRS, contributions would be in after-tax dollars; this would eliminate much of the penalty should a member need to withdraw in the future.

As this administrative process is already in use, the burden is minimized. Recent procedural improvements at the Department have lowered the cost of administering the substitute teacher records. These improvements have lowered any potential cost of administering a similar process for substitute SERS workers.

3. ***Define substitutes more rigorously and exclude them from retirement plan membership, but allow them to contribute to the Deferred Compensation Program.***

At this time substitutes are not defined in the SERS chapter. As a result, those substituting for an ill or absent SERS member may be considered eligible because the position in which they are substituting is eligible. By eliminating substitutes from membership eligibility, the issues school administrators encounter in reconciling sporadic short-term employment with SERS membership and service credit rules would be addressed.

This proposal still eliminates the administrative difficulties in the current system but gives those excluded from retirement plan membership an option to build a retirement account. This would allow the contribution of pre-tax dollars and provide contributors greater flexibility.

There are low administrative costs for employers and the Department. Membership in DCP is voluntary, the proposal does not exclude those who want to be part of a plan.

4. *Offer membership to classified, short-term employees after they have met membership requirements but only require prospective contributions (with option to buy earlier service).*

Membership and service credit provision could be changed to be prospective only. After a short-term employee accumulates the necessary months and hours of work they would become a member, but they would only be required to pay future contributions. Retroactive payments could be voluntary, made some time prior to retirement.

This method would carry relatively low administrative costs for employers and the Department.

This would require that employers make contributions when employees purchased earlier service credit in order that it be a "cost-sharing" process.

Executive Committee Recommendation:

Option #2: At the end of a school year, classified substitutes who have worked five or more months of seventy or more hours for which earnable compensation is paid may become members of the School Employees Retirement System by applying to the department and making the appropriate contributions.

and

At the end of a school year, classified substitutes who are members of the School Employees Retirement System may receive service credit for the hours they worked during that school year by applying to the department and making the appropriate contributions.

Fiscal Impact:

See Fiscal Note.

Appendix A

Membership and Service Credit Provisions in Washington Systems

System/Plan	Membership	Service Credit Month Earned for...
LEOFF 1	Mandatory for full-time fully compensated police officers, fire fighters, and specified commissioned officers. Must meet medical, health and age standards	...each month of employment for which compensation is paid for 70 or more hours.
LEOFF 2	Mandatory for full-time fully compensated law enforcement officers and fire fighters.	...each month of employment for which compensation is paid for 90 or more hours. ½ credit for over 70 but less than 90 hours. ¼ credit for less than 70 hours.
PERS 1	Mandatory for all employees in eligible positions -- any position that normally requires 5 months of service per year for which regular compensation for 70 hours is earned.	...each month of employment for which compensation is paid for 70 or more hours.
PERS 2		...each month of employment for which compensation is paid for 90 or more hours. ½ credit for over 70 but less than 90 hours. ¼ credit for less than 70 hours.
TRS 1	Mandatory for employed in full-time positions as superintendents, their assistants, certificated employees, and doctors who render instructional service.	A service credit year when employed for 144 days in a full-time assignment. A portion of a service credit year is earned when employed for more than 20 days.
TRS 2/3		A service credit year is earned for 9 months employment with compensation for 810 hours. ½ time credit for between 630 but less than 810 hours. Or, one month of credit is earned for each month of employment for which compensation is paid for 90 or more hours. ½ credit for over 70 but less than 90 hours. ¼ credit for less than 70 hours.
SERS 2/3	Mandatory for classified employees of school districts and educational service districts in eligible positions – any position that normally requires 5 months of service per year for which regular compensation for 70 hours is earned.	...each month of employment for which compensation is paid for 90 or more hours. ½ credit for over 70 but less than 90 hours. ¼ credit for less than 70 hours.
WSPRS	Mandatory for commissioned officers of the Washington State Patrol.	... all months of full-time employment for which salary is paid for 70 or more hours.

Appendix B

State/System Comparison				
System	Members	Benefit Provided	Waiting Period	Retroactive Contributions
Washington PERS 2/3	- State - Local - Elected/appointed officials	Plan 2: Defined Benefit.		
Washington SERS	- School district employees	Plan 3: Hybrid Defined Benefit / Defined Contribution Plan.	None.	No.
Washington TRS 2/3	- Teachers			
California CALPERS	- State - Local - School District	Defined Benefit w/ local employer formula options.	None.	No.
Idaho PERSI	- State - Local - Teachers - School Districts	Defined Benefit.	None.	No.
Nevada PERS	- State - Local - School Districts - U of Nevada	Defined Benefit.	None for those employed ½ time or more. Intermittent and temporary employees may become members after 6 consecutive months of employment.	No. Many purchase up to 5 years of service credit after vesting.
Oregon PERS Tier 2	- State - Local - School Districts	Highest benefit produced under one of three formulas.	6 months with no interruptions longer than 30 consecutive days.	No. Member may purchase waiting-period service after accumulating 10 YOS.
Tacoma TERS	All employees of the city, other than those excluded by ordinance, or those upon hire who are expected to work less than 3 months.	Defined Benefit.	None for employees scheduled for more than 3 months. City council members: 90 days from start of term.	No.

State/System Comparison

System	Membership Eligibility	Service Credit
Washington PERS/SERS 2/3	Employed in an eligible position normally requiring five or more months per year of 70 or more hours of service. Persons in ineligible positions who earn more than 70 hours a month for 5 months per year for two consecutive years retroactively become members.	90 or more hours per month = 1 month of service credit 70 to 90 hours per month = 1/2 month service credit Less than 70 hours per month = 1/4 month service credit
Washington TRS 2/3	Employed in an eligible position normally requiring five or more months of at least 70 hours during September through August.	12 months full time credit is earned if member is employed in an eligible position or as a substitute teacher; works 9 months during the school year (Sept-August); and for at least 810 hours. 12 months of half time service earned if member is employed in an eligible position, works 9 months of the school year, and works between 630 and 810 hours.
California CALPERS	Permanent full-time	A full year of service credit is awarded for 10 full-time months (monthly pay employees); 215 days (daily pay employees); or 1,720 hours (hourly pay employees.) For lesser work, service credit proportionate.
California CALSTRS	Employed to perform creditable service on a full-time basis.	Service credit is calculated in the proportion that a member's earnings (creditable compensation) bears to the compensation that the member would have earned if he or she had been employed and worked full time in that position.
Idaho PERSI	General employees: 20 or more hours per week and employment for 5 or more consecutive months. Teachers: Half time or more and employment for 5 or more consecutive months.	15 days or more in a calendar month = 1 month service credit. Must be paid for 20 or more hours per week. Teachers must have at least a 50% contract to earn service credit. No parts of months calculations for service credit.
Nevada PERS	A person who is employed ½ time or more by a participating public employer.	Non-school district employees earn service credit for years, months and days actually worked. School district employees receive a year of service credit for working a school year. Employment for part of the school year is credited on a ratio of one day worked/one and a third days service credit.
Oregon PERS	Work in a qualifying position for at least 600 hours in a 12-month period.	Members must be employed the majority of the month to receive one month of creditable service. No partial month credit. Teachers receive credit for two summer months if they work from Sept to Dec. They receive credit for the third summer month if they work the entire school year.
Tacoma TERS	Permanent employees. Excludes those employed less than 90days.	2,080 hours = 1 service credit year Proportionate service credit based on hours worked.

State/System Comparison

System	Intermittent	Seasonal	Temporary Provisional	Project or Limited Term	Emergency
Washington PERS, SERS, TRS 2/3	Employment without any understanding of continuity, fitting no particular pattern and performed for no more than a total of 9 months (1560 hours) during a 12-month period.	Employment which is cyclical in nature and begins at approximately the same time each year lasting 5 to 9 months in a 12 month period; or lasting as little as 3 months for the last 3 consecutive seasons.	Employment during the absence of a permanent employee; or during a workload peak to last no longer than 9 months (1560 hours); or while recruitment is conducted to establish a complete register.	- Separately funded by a grant, or by specially targeted federal or state funds; - Has a specific goal; and - Has an end in sight (shall normally last up to two years.)	An appointment for emergency reasons, not to last more than 30 calendar days.
California CALPERS	A position or appointment in which the employee is to work periodically or for a fluctuating portion of the full-time work schedule.	Employment of less than 6 months in a fiscal year (annual), 125 days in a fiscal year (daily), or 1,000 hours in a fiscal year (hourly).	An employee holding an appointment made in the absence of any appropriate employment list.	An employee whose appointment as a result of reinstatement or certification from an employment list shall not exceed two years.	An appointment made for a period not to exceed 60 working days either to prevent the stoppage of public business or because of the limited duration of the work.
Idaho PERSI	A non-classified, non-permanent position, limited to 1,385 hours in a 12-month period.	Work that occurs intermittently during the year.	Same as Intermittent.	Work limited to the length of the project grant or 2 years or 4,160 hours, whichever is shorter.	None.
Nevada PERS	Filled by a person who may be called to work at any time, supplements an agency's full-time staff, and whose compensation is separately identified in the budget.	An appointment not to exceed 9 months in any 12 month period	Positions not exceeding 6 months work in any 12 month period. Appointment in a vacancy while recruitment is conducted to establish a complete register	Same as temporary.	Employment necessary to prevent the stoppage of public business, loss of life, or extensive damage to persons or property. No longer than 60 days in a 12 month period
Oregon PERS	None	A position which occurs, terminates, and recurs periodically or regularly.	An appointment for the purpose of meeting emergency, nonrecurring or short-term workload needs of the agency.	A position not to exceed 2 years except when grant funded, shall expire upon completion of the study or project or when funding is ended.	A position to meet emergency, nonrecurring, or short-term workloads where a permanently funded position is not appropriate or feasible.
Tacoma TERS	No defined intermittent or seasonal, but service for those employed less than full time is prorated based on a 2,080 hour year.		A special job or project of limited duration, a vacancy during the absence of a permanent employee, or a permanent position pending the establishment of the eligible list.	Programs of limited duration, including special major construction projects, and projects or programs financed by federal or state governments grant-in-aid agreements, etc.	An employee whose services are required to prevent delay or injury to the public business. 30 day maximum with 10 day break.

State/System Comparisons

System	Membership Eligibility	Service Credit
Washington PERS/SERS 2/3	Full time: defined in WAC as regularly scheduled employment requiring an average of 40 hours per week.	Part time: defined in WAC as work of less than 40 hours per week
Washington TRS 2/3	Full-time - 90 or more hours per month	Part-time - less than 90 hours per month
California CALPERS	Full-time: A position or appointment in which the employee is to work the amount of time required for the employee to be compensated at a full-time rate.	Part-time: A position or appointment in which the employee is to work a specific fraction of the full-time work schedule.
California CALSTRS	Full time: The number of days or hours in a school year that the employer requires a "class of employees" to work.	Part-time: Anything less than full-time
Idaho PERSI	Full time: - General employees: 20 or more hours per week - Teachers: Half time or more	Part time: - Less than full-time.
Nevada PERS	Full time: ½ time or more.	Part time: Employee who regularly work at least half time for a full year with a minimum of 720 hours (90 days).
Oregon PERS		
Tacoma TERS	Full time: In paid status for 260 working days in a 12-month period. (2,080 hours per year.)	Part time: Less than 2,080 hours.

State Elected Officials Opt-in/Opt-out DRAFT

1 AN ACT Relating to allowing a member holding state elective
2 office the option during each term of office of ending his or her
3 membership and beginning their retirement allowance in the teachers'
4 retirement system, the school employees' retirement system, and the
5 public employees' retirement system; amending RCW 41.32.263,
6 41.32.010, 41.35.030, and 41.40.023.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 41.32.263 and 1991 c 35 s 41 are each amended to read
9 as follows:

10 A member of the retirement system who is a member of the state
11 legislature or a state official eligible for the combined pension and
12 annuity provided by RCW 41.32.497, or 41.32.498, as now or hereafter
13 amended shall have deductions taken from his or her salary in the
14 amount of seven and one-half percent of earnable compensation and
15 that service credit shall be established with the retirement system
16 while such deductions are reported to the retirement system, unless

1 he or she has by reason of his or her employment become a
2 contributing member of another public retirement system in the state
3 of Washington. Such elected official who has retired or otherwise
4 terminated his or her public school service may then elect to
5 terminate his or her membership in the retirement system and receive
6 retirement benefits while continuing to serve as an elected official.
7 A member of the retirement system who had previous service as an
8 elected or appointed official, for which he or she did not contribute
9 to the retirement system, may receive credit for such legislative
10 service unless he or she has received credit for that service in
11 another state retirement system, upon making contributions in such
12 amounts as shall be determined by the ((~~board of trustees~~)) director.

13 **Sec. 2.** RCW 41.32.010 and 1997 c 254 s 3 are each amended to
14 read as follows:

15 As used in this chapter, unless a different meaning is plainly
16 required by the context:

17 (1)(a) "Accumulated contributions" for plan 1 members, means the
18 sum of all regular annuity contributions and, except for the purpose
19 of withdrawal at the time of retirement, any amount paid under RCW
20 41.50.165(2) with regular interest thereon.

21 (b) "Accumulated contributions" for plan 2 members, means the sum
22 of all contributions standing to the credit of a member in the
23 member's individual account, including any amount paid under RCW
24 41.50.165(2), together with the regular interest thereon.

25 (2) "Actuarial equivalent" means a benefit of equal value when
26 computed upon the basis of such mortality tables and regulations as
27 shall be adopted by the director and regular interest.

28 (3) "Annuity" means the moneys payable per year during life by
29 reason of accumulated contributions of a member.

(4) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6) "Contract" means any agreement for service and compensation between a member and an employer.

(7) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan 1 members.

(8) "Dependent" means receiving one-half or more of support from a member.

(9) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan 1 members.

(10)(a) "Earnable compensation" for plan 1 members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(ii) "Earnable compensation" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position

1 which are awarded or granted as the equivalent of the salary or wages
2 which the individual would have earned during a payroll period shall
3 be considered earnable compensation and the individual shall receive
4 the equivalent service credit.

5 (B) If a leave of absence, without pay, is taken by a member for
6 the purpose of serving as a member of the state legislature, and such
7 member has served in the legislature five or more years, the salary
8 which would have been received for the position from which the leave
9 of absence was taken shall be considered as compensation earnable if
10 the employee's contribution thereon is paid by the employee. In
11 addition, where a member has been a member of the state legislature
12 for five or more years, earnable compensation for the member's two
13 highest compensated consecutive years of service shall include a sum
14 not to exceed thirty-six hundred dollars for each of such two
15 consecutive years, regardless of whether or not legislative service
16 was rendered during those two years.

17 (iii) For members employed less than full time under written
18 contract with a school district, or community college district, in an
19 instructional position, for which the member receives service credit
20 of less than one year in all of the years used to determine the
21 earnable compensation used for computing benefits due under RCW
22 41.32.497, 41.32.498, and 41.32.520, the member may elect to have
23 earnable compensation defined as provided in RCW 41.32.345. For the
24 purposes of this subsection, the term "instructional position" means
25 a position in which more than seventy-five percent of the member's
26 time is spent as a classroom instructor (including office hours), a
27 librarian, or a counselor. Earnable compensation shall be so defined
28 only for the purpose of the calculation of retirement benefits and
29 only as necessary to insure that members who receive fractional

1 service credit under RCW 41.32.270 receive benefits proportional to
2 those received by members who have received full-time service credit.

3 (iv) "Earnable compensation" does not include:

4 (A) Remuneration for unused sick leave authorized under RCW
5 41.04.340, 28A.400.210, or 28A.310.490;

6 (B) Remuneration for unused annual leave in excess of thirty days
7 as authorized by RCW 43.01.044 and 43.01.041.

8 (b) "Earnable compensation" for plan 2 and plan 3 members, means
9 salaries or wages earned by a member during a payroll period for
10 personal services, including overtime payments, and shall include
11 wages and salaries deferred under provisions established pursuant to
12 sections 403(b), 414(h), and 457 of the United States Internal
13 Revenue Code, but shall exclude lump sum payments for deferred annual
14 sick leave, unused accumulated vacation, unused accumulated annual
15 leave, or any form of severance pay.

16 "Earnable compensation" for plan 2 and plan 3 members also
17 includes the following actual or imputed payments which, except in
18 the case of (b)(ii)(B) of this subsection, are not paid for personal
19 services:

20 (i) Retroactive payments to an individual by an employer on
21 reinstatement of the employee in a position or payments by an
22 employer to an individual in lieu of reinstatement in a position
23 which are awarded or granted as the equivalent of the salary or wages
24 which the individual would have earned during a payroll period shall
25 be considered earnable compensation, to the extent provided above,
26 and the individual shall receive the equivalent service credit.

27 (ii) In any year in which a member serves in the legislature the
28 member shall have the option of having such member's earnable
29 compensation be the greater of:

1 (A) The earnable compensation the member would have received had
2 such member not served in the legislature; or

3 (B) Such member's actual earnable compensation received for
4 teaching and legislative service combined. Any additional
5 contributions to the retirement system required because compensation
6 earnable under (b)(ii)(A) of this subsection is greater than
7 compensation earnable under (b)(ii)(B) of this subsection shall be
8 paid by the member for both member and employer contributions.

9 (11) "Employer" means the state of Washington, the school
10 district, or any agency of the state of Washington by which the
11 member is paid.

12 (12) "Fiscal year" means a year which begins July 1st and ends
13 June 30th of the following year.

14 (13) "Former state fund" means the state retirement fund in
15 operation for teachers under chapter 187, Laws of 1923, as amended.

16 (14) "Local fund" means any of the local retirement funds for
17 teachers operated in any school district in accordance with the
18 provisions of chapter 163, Laws of 1917 as amended.

19 (15) "Member" means any teacher included in the membership of the
20 retirement system. Also, any other employee of the public schools
21 who, on July 1, 1947, had not elected to be exempt from membership
22 and who, prior to that date, had by an authorized payroll deduction,
23 contributed to the member reserve.

24 (16) "Membership service" means service rendered subsequent to
25 the first day of eligibility of a person to membership in the
26 retirement system: PROVIDED, That where a member is employed by two
27 or more employers the individual shall receive no more than one
28 service credit month during any calendar month in which multiple
29 service is rendered. The provisions of this subsection shall apply
30 only to plan 1 members.

(17) "Pension" means the moneys payable per year during life from the pension reserve.

(18) "Pension reserve" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(19) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan 1 members.

(20) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan 1 members.

(21) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(22) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan 1 members.

(23) "Regular interest" means such rate as the director may determine.

(24)(a) "Retirement allowance" for plan 1 members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan 2 and plan 3 members, means monthly payments to a retiree or beneficiary as provided in this chapter.

(25) "Retirement system" means the Washington state teachers' retirement system.

(26)(a) "Service" for plan 1 members means the time during which a member has been employed by an employer for compensation.

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132;

(ii) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for

1 at least six hundred thirty hours, he or she will receive one-half of
2 a service credit month for each month of the twelve month period;

3 (iii) All other members in an eligible position or as a
4 substitute teacher shall receive service credit as follows:

5 (A) A service credit month is earned in those calendar months
6 where earnable compensation is earned for ninety or more hours;

7 (B) A half-service credit month is earned in those calendar
8 months where earnable compensation is earned for at least seventy
9 hours but less than ninety hours; and

10 (C) A quarter-service credit month is earned in those calendar
11 months where earnable compensation is earned for less than seventy
12 hours.

13 (iv) Any person who is a member of the teachers' retirement
14 system and who is elected or appointed to a state elective position
15 may continue to be a member of the retirement system and continue to
16 receive a service credit month for each of the months in a state
17 elective position by making the required member contributions.

18 (v) Any person who is a member of the teachers' retirement system
19 plan 2 or plan 3 and who is elected or appointed to a state elective
20 position has the option during a ninety-day period at the beginning
21 of each term of office either to resume membership or to end
22 membership in the retirement system and if otherwise eligible begin
23 their retirement allowance. A state elected official who chooses to
24 end membership at the beginning of a term of office and begin their
25 retirement allowance shall neither make contributions nor earn
26 service credit for the duration of that term.

27 ~~((v))~~ (vi) When an individual is employed by two or more
28 employers the individual shall only receive one month's service
29 credit during any calendar month in which multiple service for ninety
30 or more hours is rendered.

1 (~~((vii))~~)(vii) As authorized by RCW 28A.400.300, up to forty-five
2 days of sick leave may be creditable as service solely for the
3 purpose of determining eligibility to retire under RCW 41.32.470.
4 For purposes of plan 2 and plan 3 "forty-five days" as used in RCW
5 28A.400.300 is equal to two service credit months. Use of less than
6 forty-five days of sick leave is creditable as allowed under this
7 subsection as follows:

8 (A) Less than eleven days equals one-quarter service credit
9 month;

10 (B) Eleven or more days but less than twenty-two days equals one-
11 half service credit month;

12 (C) Twenty-two days equals one service credit month;

13 (D) More than twenty-two days but less than thirty-three days
14 equals one and one-quarter service credit month;

15 (E) Thirty-three or more days but less than forty-five days
16 equals one and one-half service credit month.

17 (~~((viii))~~)(viii) As authorized in RCW 41.32.065, service earned in
18 an out-of-state retirement system that covers teachers in public
19 schools may be applied solely for the purpose of determining
20 eligibility to retire under RCW 41.32.470.

21 (~~((viii))~~)(viv) The department shall adopt rules implementing
22 this subsection.

23 (27) "Service credit year" means an accumulation of months of
24 service credit which is equal to one when divided by twelve.

25 (28) "Service credit month" means a full service credit month or
26 an accumulation of partial service credit months that are equal to
27 one.

28 (29) "Teacher" means any person qualified to teach who is engaged
29 by a public school in an instructional, administrative, or
30 supervisory capacity. The term includes state, educational service

1 district, and school district superintendents and their assistants
2 and all employees certificated by the superintendent of public
3 instruction; and in addition thereto any full time school doctor who
4 is employed by a public school and renders service of an
5 instructional or educational nature.

6 (30) "Average final compensation" for plan 2 and plan 3 members,
7 means the member's average earnable compensation of the highest
8 consecutive sixty service credit months prior to such member's
9 retirement, termination, or death. Periods constituting authorized
10 leaves of absence may not be used in the calculation of average final
11 compensation except under RCW 41.32.810(2).

12 (31) "Retiree" means any person who has begun accruing a
13 retirement allowance or other benefit provided by this chapter
14 resulting from service rendered to an employer while a member.

15 (32) "Department" means the department of retirement systems
16 created in chapter 41.50 RCW.

17 (33) "Director" means the director of the department.

18 (34) "State elective position" means any position held by any
19 person elected or appointed to state-wide office or elected or
20 appointed as a member of the legislature.

21 (35) "State actuary" or "actuary" means the person appointed
22 pursuant to RCW 44.44.010(2).

23 (36) "Substitute teacher" means:

24 (a) A teacher who is hired by an employer to work as a temporary
25 teacher, except for teachers who are annual contract employees of an
26 employer and are guaranteed a minimum number of hours; or

27 (b) Teachers who either (i) work in ineligible positions for more
28 than one employer or (ii) work in an ineligible position or positions
29 together with an eligible position.

1 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,
2 through September 1, 1991, means a position which normally requires
3 two or more uninterrupted months of creditable service during
4 September through August of the following year.

5 (b) "Eligible position" for plan 2 and plan 3 on and after
6 September 1, 1991, means a position that, as defined by the employer,
7 normally requires five or more months of at least seventy hours of
8 earnable compensation during September through August of the
9 following year.

10 (c) For purposes of this chapter an employer shall not define
11 "position" in such a manner that an employee's monthly work for that
12 employer is divided into more than one position.

13 (d) The elected position of the superintendent of public
14 instruction is an eligible position.

15 (38) "Plan 1" means the teachers' retirement system, plan 1
16 providing the benefits and funding provisions covering persons who
17 first became members of the system prior to October 1, 1977.

18 (39) "Plan 2" means the teachers' retirement system, plan 2
19 providing the benefits and funding provisions covering persons who
20 first became members of the system on and after October 1, 1977, and
21 prior to July 1, 1996.

22 (40) "Plan 3" means the teachers' retirement system, plan 3
23 providing the benefits and funding provisions covering persons who
24 first become members of the system on and after July 1, 1996, or who
25 transfer under RCW 41.32.817.

26 (41) "Index" means, for any calendar year, that year's annual
27 average consumer price index, Seattle, Washington area, for urban
28 wage earners and clerical workers, all items compiled by the bureau
29 of labor statistics, United States department of labor.

(42) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(43) "Index B" means the index for the year prior to index A.

(44) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(45) "Adjustment ratio" means the value of index A divided by index B.

(46) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(47) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(48) "Separation from service or employment" occurs when a person has terminated all employment with an employer.

(49) "Employed" or "employee" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

NEW SECTION. **Sec. 3.** RCW 41.35.030 and 1998 c 341 s 4 are each amended to read as follows:

Membership in the retirement system shall consist of all regularly compensated classified employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

(1) Persons in ineligible positions;

(2)(a) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the

1 option of applying for membership during such periods of employment:
2 AND PROVIDED FURTHER, That any persons holding or who have held
3 elective offices or persons appointed by the governor who are members
4 in the retirement system and who have, prior to becoming such
5 members, previously held an elective office, and did not at the start
6 of such initial or successive terms of office exercise their option
7 to become members, may apply for membership to be effective during
8 such term or terms of office, and shall be allowed to establish the
9 service credit applicable to such term or terms of office upon
10 payment of the employee contributions therefor by the employee with
11 interest as determined by the director and employer contributions
12 therefor by the employer or employee with interest as determined by
13 the director: AND PROVIDED FURTHER, That all contributions with
14 interest submitted by the employee under this subsection shall be
15 placed in the employee's individual account in the employee's savings
16 fund and be treated as any other contribution made by the employee,
17 with the exception that any contributions submitted by the employee
18 in payment of the employer's obligation, together with the interest
19 the director may apply to the employer's contribution, shall not be
20 considered part of the member's annuity for any purpose except
21 withdrawal of contributions;

22 (b) A member holding elective office who has elected to apply for
23 membership pursuant to (a) of this subsection and who later wishes to
24 be eligible for a retirement allowance shall have the option of
25 ending his or her membership in the retirement system. A member
26 wishing to end his or her membership under this subsection must file
27 on a form supplied by the department a statement indicating that the
28 member agrees to irrevocably abandon any claim for service for future
29 periods served as an elected official. Except for members in state
30 elective positions, ((A)) member who receives more than fifteen

1 thousand dollars per year in compensation for his or her elective
2 service, adjusted annually for inflation by the director, is not
3 eligible for the option provided by this subsection (2)(b). A member
4 in a state elective position may apply to end his or her membership
5 and be eligible for a retirement allowance during a ninety day period
6 at the beginning of each term of office regardless of the
7 compensation they receive for elective service;

8 (3) Retirement system retirees: PROVIDED, That following
9 reemployment in an eligible position, a retiree may elect to
10 prospectively become a member of the retirement system if otherwise
11 eligible;

12 (4) Persons enrolled in state-approved apprenticeship programs,
13 authorized under chapter 49.04 RCW, and who are employed by employers
14 to earn hours to complete such apprenticeship programs, if the
15 employee is a member of a union-sponsored retirement plan and is
16 making contributions to such a retirement plan or if the employee is
17 a member of a Taft-Hartley retirement plan;

18 (5) Persons rendering professional services to an employer on a
19 fee, retainer, or contract basis or when the income from these
20 services is less than fifty percent of the gross income received from
21 the person's practice of a profession;

22 (6) Employees who (a) are not citizens of the United States, (b)
23 do not reside in the United States, and (c) perform duties outside of
24 the United States;

25 (7) Employees who (a) are not citizens of the United States, (b)
26 are not covered by chapter 41.48 RCW, (c) are not excluded from
27 membership under this chapter or chapter 41.04 RCW, (d) are residents
28 of this state, and (e) make an irrevocable election to be excluded
29 from membership, in writing, which is submitted to the director
30 within thirty days after employment in an eligible position;

1 (8) Employees who are citizens of the United States and who
2 reside and perform duties for an employer outside of the United
3 States: PROVIDED, That unless otherwise excluded under this chapter
4 or chapter 41.04 RCW, the employee may apply for membership (a)
5 within thirty days after employment in an eligible position and
6 membership service credit shall be granted from the first day of
7 membership service, and (b) after this thirty-day period, but
8 membership service credit shall be granted only if payment is made
9 for the noncredited membership service under RCW 41.50.165(2),
10 otherwise service shall be from the date of application.

11 NEW SECTION. **Sec. 4.** RCW 41.40.023 and 2001 c 37 s 1 are each
12 amended to read as follows:

13 Membership in the retirement system shall consist of all
14 regularly compensated employees and appointive and elective officials
15 of employers, as defined in this chapter, with the following
16 exceptions:

17 (1) Persons in ineligible positions;

18 (2) Employees of the legislature except the officers thereof
19 elected by the members of the senate and the house and legislative
20 committees, unless membership of such employees be authorized by the
21 said committee;

22 (3)(a) Persons holding elective offices or persons appointed
23 directly by the governor: PROVIDED, That such persons shall have the
24 option of applying for membership during such periods of employment:
25 AND PROVIDED FURTHER, That any persons holding or who have held
26 elective offices or persons appointed by the governor who are members
27 in the retirement system and who have, prior to becoming such
28 members, previously held an elective office, and did not at the start
29 of such initial or successive terms of office exercise their option

1 to become members, may apply for membership to be effective during
2 such term or terms of office, and shall be allowed to establish the
3 service credit applicable to such term or terms of office upon
4 payment of the employee contributions therefor by the employee with
5 interest as determined by the director and employer contributions
6 therefor by the employer or employee with interest as determined by
7 the director: AND PROVIDED FURTHER, That all contributions with
8 interest submitted by the employee under this subsection shall be
9 placed in the employee's individual account in the employee's savings
10 fund and be treated as any other contribution made by the employee,
11 with the exception that any contributions submitted by the employee
12 in payment of the employer's obligation, together with the interest
13 the director may apply to the employer's contribution, shall not be
14 considered part of the member's annuity for any purpose except
15 withdrawal of contributions;

16 (b) A member holding elective office who has elected to apply for
17 membership pursuant to (a) of this subsection and who later wishes to
18 be eligible for a retirement allowance shall have the option of
19 ending his or her membership in the retirement system. A member
20 wishing to end his or her membership under this subsection must file,
21 on a form supplied by the department, a statement indicating that the
22 member agrees to irrevocably abandon any claim for service for future
23 periods served as an elected official. Except for members in state
24 elective positions, ((A)) member who receives more than fifteen
25 thousand dollars per year in compensation for his or her elective
26 service, adjusted annually for inflation by the director, is not
27 eligible for the option provided by this subsection (3)(b). A member
28 in a state elective position may apply to end his or her membership
29 and be eligible for a retirement allowance during a ninety day period

at the beginning of each term of office regardless of the
compensation they receive for elective service;

(4) Employees holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan except as follows:

(a) In any case where the retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, such an employee shall be allowed membership rights should the agreement so provide;

(b) An employee shall be allowed membership if otherwise eligible while receiving survivor's benefits;

(c) An employee shall not either before or after June 7, 1984, be excluded from membership or denied service credit pursuant to this subsection solely on account of: (i) Membership in the plan created under chapter 2.14 RCW; or (ii) enrollment under the relief and compensation provisions or the pension provisions of the volunteer fire fighters' relief and pension fund under chapter 41.24 RCW;

(d) Except as provided in RCW 41.40.109, on or after July 25, 1999, an employee shall not be excluded from membership or denied service credit pursuant to this subsection solely on account of participation in a defined contribution pension plan qualified under section 401 of the internal revenue code;

(e) Employees who have been reported in the retirement system prior to July 25, 1999, and who participated during the same period of time in a defined contribution pension plan qualified under section 401 of the internal revenue code and operated wholly or in

1 part by the employer, shall not be excluded from previous retirement
2 system membership and service credit on account of such
3 participation;

4 (5) Patient and inmate help in state charitable, penal, and
5 correctional institutions;

6 (6) "Members" of a state veterans' home or state soldiers' home;

7 (7) Persons employed by an institution of higher learning or
8 community college, primarily as an incident to and in furtherance of
9 their education or training, or the education or training of a
10 spouse;

11 (8) Employees of an institution of higher learning or community
12 college during the period of service necessary to establish
13 eligibility for membership in the retirement plans operated by such
14 institutions;

15 (9) Persons rendering professional services to an employer on a
16 fee, retainer, or contract basis or when the income from these
17 services is less than fifty percent of the gross income received from
18 the person's practice of a profession;

19 (10) Persons appointed after April 1, 1963, by the liquor control
20 board as agency vendors;

21 (11) Employees of a labor guild, association, or organization:
22 PROVIDED, That elective officials and employees of a labor guild,
23 association, or organization which qualifies as an employer within
24 this chapter shall have the option of applying for membership;

25 (12) Retirement system retirees: PROVIDED, That following
26 reemployment in an eligible position, a retiree may elect to
27 prospectively become a member of the retirement system if otherwise
28 eligible;

29 (13) Persons employed by or appointed or elected as an official
30 of a first class city that has its own retirement system: PROVIDED,

1 That any member elected or appointed to an elective office on or
2 after April 1, 1971, shall have the option of continuing as a member
3 of this system in lieu of becoming a member of the city system. A
4 member who elects to continue as a member of this system shall pay
5 the appropriate member contributions and the city shall pay the
6 employer contributions at the rates prescribed by this chapter. The
7 city shall also transfer to this system all of such member's
8 accumulated contributions together with such further amounts as
9 necessary to equal all employee and employer contributions which
10 would have been paid into this system on account of such service with
11 the city and thereupon the member shall be granted credit for all
12 such service. Any city that becomes an employer as defined in RCW
13 41.40.010(4) as the result of an individual's election under this
14 subsection shall not be required to have all employees covered for
15 retirement under the provisions of this chapter. Nothing in this
16 subsection shall prohibit a city of the first class with its own
17 retirement system from: (a) Transferring all of its current
18 employees to the retirement system established under this chapter, or
19 (b) allowing newly hired employees the option of continuing coverage
20 under the retirement system established by this chapter.

21 Notwithstanding any other provision of this chapter, persons
22 transferring from employment with a first class city of over four
23 hundred thousand population that has its own retirement system to
24 employment with the state department of agriculture may elect to
25 remain within the retirement system of such city and the state shall
26 pay the employer contributions for such persons at like rates as
27 prescribed for employers of other members of such system;

28 (14) Employees who (a) are not citizens of the United States, (b)
29 do not reside in the United States, and (c) perform duties outside of
30 the United States;

1 (15) Employees who (a) are not citizens of the United States, (b)
2 are not covered by chapter 41.48 RCW, (c) are not excluded from
3 membership under this chapter or chapter 41.04 RCW, (d) are residents
4 of this state, and (e) make an irrevocable election to be excluded
5 from membership, in writing, which is submitted to the director
6 within thirty days after employment in an eligible position;

7 (16) Employees who are citizens of the United States and who
8 reside and perform duties for an employer outside of the United
9 States: PROVIDED, That unless otherwise excluded under this chapter
10 or chapter 41.04 RCW, the employee may apply for membership (a)
11 within thirty days after employment in an eligible position and
12 membership service credit shall be granted from the first day of
13 membership service, and (b) after this thirty-day period, but
14 membership service credit shall be granted only if payment is made
15 for the noncredited membership service under RCW 41.50.165(2),
16 otherwise service shall be from the date of application;

17 (17) The city manager or chief administrative officer of a city
18 or town, other than a retiree, who serves at the pleasure of an
19 appointing authority: PROVIDED, That such persons shall have the
20 option of applying for membership within thirty days from date of
21 their appointment to such positions. Persons serving in such
22 positions as of April 4, 1986, shall continue to be members in the
23 retirement system unless they notify the director in writing prior to
24 December 31, 1986, of their desire to withdraw from membership in the
25 retirement system. A member who withdraws from membership in the
26 system under this section shall receive a refund of the member's
27 accumulated contributions.

28 Persons serving in such positions who have not opted for
29 membership within the specified thirty days, may do so by paying the

1 amount required under RCW 41.50.165(2) for the period from the date
2 of their appointment to the date of acceptance into membership;

3 (18) Persons serving as: (a) The chief administrative officer of
4 a public utility district as defined in RCW 54.16.100; (b) the chief
5 administrative officer of a port district formed under chapter 53.04
6 RCW; or (c) the chief administrative officer of a county who serves
7 at the pleasure of an appointing authority: PROVIDED, That such
8 persons shall have the option of applying for membership within
9 thirty days from the date of their appointment to such positions.
10 Persons serving in such positions as of July 25, 1999, shall continue
11 to be members in the retirement system unless they notify the
12 director in writing prior to December 31, 1999, of their desire to
13 withdraw from membership in the retirement system. A member who
14 withdraws from membership in the system under this section shall
15 receive a refund of the member's accumulated contributions upon
16 termination of employment or as otherwise consistent with the plan's
17 tax qualification status as defined in internal revenue code section
18 401.

19 Persons serving in such positions who have not opted for
20 membership within the specified thirty days, may do so at a later
21 date by paying the amount required under RCW 41.50.165(2) for the
22 period from the date of their appointment to the date of acceptance
23 into membership;

24 (19) Persons enrolled in state-approved apprenticeship programs,
25 authorized under chapter 49.04 RCW, and who are employed by local
26 governments to earn hours to complete such apprenticeship programs,
27 if the employee is a member of a union-sponsored retirement plan and
28 is making contributions to such a retirement plan or if the employee
29 is a member of a Taft-Hartley retirement plan;

1 (20) Beginning on July 22, 2001, persons employed exclusively as
2 trainers or trainees in resident apprentice training programs
3 operated by housing authorities authorized under chapter 35.82 RCW,
4 (a) if the trainer or trainee is a member of a union-sponsored
5 retirement plan and is making contributions to such a retirement plan
6 or (b) if the employee is a member of a Taft-Hartley retirement plan.

--- END ---

Elected Officials Opt In/Opt Out

State Elected Official Service Retirement Provisions

Issue:

State elected officials, such as members of the legislature and statewide office holders such as the Secretary of State or the Lieutenant Governor, have special rules regarding their participation and benefits from the Washington State Retirement Systems. Like the other members of different systems and plans, the terms vary depending on date of entry into membership and system eligibility. The following information is a brief summary of the many detailed rules relating to state elected official membership.

Background:

Who is considered a State Elected Official?

Eligibility for the state elected official benefits vary somewhat by retirement system and plan. Members of the legislature, as well as holders of state-wide elected offices such as the Secretary of State, State Treasurer, and Lieutenant Governor are all examples of state elected officials in all plans.

Benefits for state elected officials vary by the plan they belong to, and also vary from the regular member of those plans. Some plans have rules for local government elected officials and officials appointed directly by the Governor that are distinct from the state elected official rules. The rules for groups other than state elected officials are not included in this discussion. The following table illustrates eligibility and other basic differences between the benefits for regular and state elected official members:

Eligibility and Benefit differences for State Elected Officials by system and plan:

System and Plan	Eligibility for State Elected Official benefits	Benefit differences?
PERS Plan 1	<ul style="list-style-type: none">- elected or appointed to state office- a PERS 1 member when elected- a former PERS 1 member	<ul style="list-style-type: none">- benefit based on 3 percent per year of AFC for eligible service.- member contribution rate is 7.5 %, rather than 6 %.- may retire and retain elected position if earning less than \$15,000 per year, and abandon claims for future service.

System and Plan	Eligibility for State Elected Official benefits	Benefit differences?
PERS Plan 2/3	<ul style="list-style-type: none"> - elected to state office - a PERS 2/3, TRS 2/3, SERS, or LEOFF 2 member when elected - not a member when elected 	<ul style="list-style-type: none"> - may retire and retain elected position if earning less than \$15,000 per year, and abandon claims for future service.
TRS Plan 1	<ul style="list-style-type: none"> - elected or appointed to state office - a TRS 1 member when elected 	<ul style="list-style-type: none"> - may retire and begin benefits without leaving elected office if claim to future service is waived. - member contribution rate is 7.5% rather than 6%.
TRS Plan 2/3	<ul style="list-style-type: none"> - elected or appointed to state office - a TRS 2/3 member when elected 	<ul style="list-style-type: none"> - may enter PERS 2/3 or take a leave of absence from TRS 2/3, purchase TRS service after returning to teaching.
LEOFF plan 1	<ul style="list-style-type: none"> - elected or appointed to state office - elected to a full-time local office - a LEOFF 1 member when elected 	
LEOFF Plan 2	<ul style="list-style-type: none"> - elected or appointed to state office - a LEOFF 2 member when elected 	<ul style="list-style-type: none"> - option of joining PERS 2 rather than continuing LEOFF 2 membership.

With the exception of PERS 2/3, an individual must establish membership in the plan prior to entering their elected or appointed state office. PERS 2/3 is among those with different rules for state elected officials and Governor-appointed officials.

The plans and systems have numerous variations on membership in benefits, for example LEOFF plan 1 is the only one of these plans that treats some full-time local officials under the same rules as state elected officials. TRS plan 1 and PERS plan 1 each provide additional benefits, but also require their members to contribute an additional 1.5 percent of pay.

Rules for entering membership

The state elected official rules provide membership rules for members to opt-in to membership when they begin their elected or appointed service.

- During initial term

During a member's first term in office, they may apply for membership in PERS 2/3 or continue membership in their current plan. Members may generally continue to contribute and earn service credit, or may return to active membership from retirement upon entering office.

TRS 2/3 members are an exception to the general rule. They may take a leave of absence without pay from TRS 2/3 to serve in state elected office and be a member of no plan, or accumulate PERS 2/3 service during their term(s) of office. Upon return to active TRS service, a member that chose a leave of absence may purchase up to two years of TRS unpaid leave of absence service.

A member who is retired when they enter state elected or appointed office may face restrictions on their receipt of their retirement benefit while also being employed. These restrictions vary by system and plan.

In PERS 2/3, a retired member is limited to 867 hours of employment per year without reduction in their retirement benefit. In PERS 1 however, a member who is retired when elected or appointed to office may continue to receive their retirement allowance without reduction. A retired PERS 1 member may also choose to return to active service during a term of office, but any benefits received during the current term of office must be repaid.

As in PERS 2/3, a retired TRS 2/3 state elected official may work up to 867 hours per year and continue to receive an unreduced benefit. In TRS 1, a member may choose to retire or return to active membership during state elected or appointed service. If active TRS 1 member chooses to begin their benefit, all claim to future service while retired is waived. If a retired TRS 1 member returns to active service, their benefit ceases and all benefits paid during that term of office must be repaid.

- During subsequent terms

State elected officials in PERS and TRS 1 may also apply for membership for a new term of office or for following terms. Members of TRS 2/3 or LEOFF may, under some circumstances, be eligible to become an active member of PERS 2/3. Upon entering active membership, service credit will be granted back to the first day of the current term of office upon the member's payment of back employee contributions plus interest. The employer must pay the employer contributions back to the start of that same term.

Prior to retirement, members may apply for retroactive service credit for past terms of state elected or appointed office, however the payment terms differ. The state elected or appointed official must pay the required employee contributions, plus interest, and also the employer contributions plus interest. An employer may choose to pay those contributions for past terms of office in some plans, but is not required to.

When can members retire?

State elected official members of the PERS plans who earn more than \$15,000 per year in their elected positions must meet the retirement criteria for their plan and separate from service to be eligible to receive a retirement benefit.

In TRS 1, a state elected or appointed official may, if eligible, retire from active membership and begin receiving monthly benefits while in office. The TRS 1 member must waive all claim to future service credit that would have been earned while in office. Like PERS 2/3, TRS 2/3 members may choose membership in PERS 2/3 or retire before entering office subject to the TRS 2/3 867 hour post-retirement employment limit, but may not retire while in state elective service.

Eligibility for service credit

Service in state elective positions is considered to be full-time service. For each full year of elected or appointed service, an official is eligible for 12 months of service credit.

Legislative earnable compensation options

Special rules exist for legislators to determine the salary used to determine their retirement allowances. Generally they permit the member to make up for a reduction in earnable compensation that might occur because of leave taken from other public employment for service in the legislature.

In PERS plan 1, a member on a leave of absence from a PERS job to serve in the legislature may use the salary that they would have earned in the other position in determining earnable compensation. Both the employee and employer contributions on the difference between the two earnable compensation amounts must be paid for the imputed compensation to be considered.

In PERS 2/3, a similar option is available, but statute specifically requires the member to pay both any additional member and employer contributions that may be required.

In TRS plan 1, if a member takes a leave of absence to serve in the legislature for five years or more, the member is entitled to use the salary from the position from which leave was taken as earnable compensation upon paying the required employee contributions. In addition, these members with five or more years of legislative service have an amount not to exceed \$7,200 is added to their average final compensation.

In TRS plan 2/3 a member may use the greater of the salary that they would have earned if they had not served in the legislature, or their combined teaching and legislative compensation. The member must pay both the additional member and employer contributions required by the provision's increase to earnable compensation.

Executive Committee Recommendation:

Permit members of all plans who are state elected officials to choose membership or retirement at the beginning of each term of office. Upon reaching the age and service eligibility requirements of their plan, a state elected official will have 90 days at the beginning of each term of office to choose either membership or retirement and commencement of their benefit. A state elected official that opts to retire shall give up earning service credit and making contributions until they choose to return to active membership in a subsequent term.

Unlike the current provisions of most plans, a state elected official member that chooses to retire may begin collecting the benefit they have earned in their plan without requirement that they leave their state elective office. A state elected official who is also a member because they are currently employed in a non-state elective position covered by their retirement plan must still follow the termination and re-employment restrictions related to that other job and retirement plan.

Age 70½ Receive Benefit

Issue:

In order to begin receiving a retirement allowance, a member must be eligible for benefits under their plan, leave employment, and apply to the department to start their allowance. They thereby leave active membership and become a retiree. The requirement that a member separate from service exists regardless of age. Federal law requires that private plans allow members to terminate active membership and begin their benefits at age 70½ without leaving employment - a rule that does not apply to governmental plans such as the Washington State Retirement Systems.

Background:

In 1986, the Federal Tax Reform Act included a provision amending Internal Revenue Code section 401(a)(9)(C) requiring all pension and retirement benefits to begin no later than age 70½ regardless of whether the individual remained employed. This served as an exception to the general rule that the employee must retire before the payment of retirement benefits can begin. Individuals who did not begin receiving their pension benefits by this time were made subject to a 50 percent tax on the amount that would have been paid had they retired.

To follow the federal requirement, the Legislature changed the Judicial, Judges, LEOFF, TRS, PERS, and WSPRS systems in 1988 to allow members with more than five years of service to apply for their retirement benefit after age 70½. The change adopted by the legislature was distinct from the federal requirement in that it allowed individuals to be active members and collect service credit, and be retired and collect their benefit simultaneously. The expressed intent of the legislature was that if Congress repealed the requirement for distribution at 70½, payments made to members who never left employment and began their benefit under the provision would cease. The rule was codified as RCW 41.04.065.

Federal law was changed to exempt governmental plans, a category of plans that includes the Washington State Retirement Systems, from the requirement that distribution of benefits commences at age 70½. The state retirement systems currently remain exempt from the federal 70½ rule. RCW 41.04.065 was then repealed by the Legislature in 1991, ending the age 70½ provision.

**Vested Active Members Age 70½ or Greater
by System and Plan, 2000 Valuation**

System	Plan 1 Count	Plan 2 Count	Plan 3 Count
SERS	0	81	15
JRS	1	0	0
PERS	138	167	0
TRS	20	10	0

The 2001 Legislature increased the number of hours that retirees in PERS plan 1 and TRS plan 1 could work without facing a reduction in their benefits. All retirees are still required to separate from service for 30 days, however, or be prohibited from both receiving their benefit and returning to work.

Possible Approaches:

Members of PERS, SERS and TRS plans 1, 2, and 3 who have attained age 70½ and meet the vesting requirements for their respective plans could be given the opportunity to apply for retirement benefits to begin without requiring that they separate from service. Upon application for retirement benefits, an individual would cease active membership and would no longer accumulate service credit.

Executive Committee Recommendation:

Members of PERS, SERS, and TRS plans 1, 2, and 3 who have attained age 70½ and meet the vesting requirements for their plan may apply for retirement benefits without requiring that they separate from service. Upon application for retirement benefits, an individual ceases active membership and no longer accumulates service credit.

Brief Description: Allowing members of the teachers' retirement system, the school employees' retirement system, and the public employees' retirement system to begin receiving benefits without leaving service at age seventy and one-half.

Page and line numbering may vary depending on the printer used.

ELECTRONIC TRANSMITTAL

1 AN ACT Relating to allowing members of the teachers' retirement
2 system, the school employees' retirement system, and the public
3 employees' retirement system to begin receiving benefits without
4 leaving service at age seventy and one-half; adding a new section to
5 chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; and
6 adding a new section to chapter 41.40 RCW.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.32 RCW
9 under the subchapter heading "provisions applicable to plan 1, plan 2,
10 and plan 3" to read as follows:

11 Upon attainment of age seventy and one-half, an employed member
12 may, subject to this section, apply for the retirement benefit the
13 member is otherwise eligible to receive and remain employed without
14 reduction in their pension. The retirement benefit begins to accrue on
15 the first day of the calendar month following the month that a member
16 applies for a retirement benefit and has attained age seventy and one-
17 half. The benefit shall be calculated in accordance with the rules of
18 the member's plan, except that the member may continue to be employed.

1 Upon retirement, the retiree is no longer an active member and may not
2 make contributions, nor receive service credit, for future periods of
3 employment while receiving his or her retirement allowance.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.35 RCW
5 under the subchapter heading "provisions applicable to plan 2 and plan
6 3" to read as follows:

7 Upon attainment of age seventy and one-half, an employed member
8 may, subject to this section, apply for the retirement benefit the
9 member is otherwise eligible to receive and remain employed without
10 reduction in their pension. The retirement benefit begins to accrue on
11 the first day of the calendar month following the month that a member
12 applies for a retirement benefit and has attained age seventy and one-
13 half. The benefit is calculated in accordance with the rules of the
14 member's plan, except that the member may continue to be employed.
15 Upon retirement, the retiree is no longer an active member and may not
16 make contributions, nor receive service credit, for future periods of
17 employment while receiving his or her retirement allowance.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.40 RCW
19 under the subchapter heading "provisions applicable to plan 1, plan 2,
20 and plan 3" to read as follows:

21 Upon attainment of age seventy and one-half, an employed member
22 may, subject to this section, apply for the retirement benefit the
23 member is otherwise eligible to receive and remain employed without
24 reduction in their pension. The retirement benefit begins to accrue on
25 the first day of the calendar month following the month that a member
26 applies for a retirement benefit and has attained age seventy and one-
27 half. The benefit shall be calculated in accordance with the rules of
28 the member's plan, except that the member may continue to be employed.
29 Upon retirement, the retiree is no longer an active member and may not
30 make contributions, nor receive service credit, for future periods of
31 employment while receiving his or her retirement allowance.

--- END ---

1 AN ACT Relating to providing a death benefit for certain state
2 employees; adding a new section to chapter 41.40 RCW; adding a new
3 section to chapter 41.32 RCW; adding a new section to chapter 41.35
4 RCW; and adding a new section to chapter 41.04 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.40 RCW
7 under the subchapter heading "provisions applicable to plan 1, plan 2,
8 and plan 3" to read as follows:

9 (1) A one hundred fifty thousand dollar death benefit shall be paid
10 to the member's estate, or such person or persons, trust or
11 organization as the member has nominated by written designation duly
12 executed and filed with the department. If no such designated person
13 or persons are still living at the time of the member's death, the
14 member's death benefit shall be paid to the member's surviving spouse
15 as if in fact the spouse had been nominated by written designation, or
16 if there is no surviving spouse, then to the member's legal
17 representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.32 RCW under the subchapter heading "provisions applicable to plan 1, plan 2, and plan 3" to read as follows:

(1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member has nominated by written designation duly executed and filed with the department. If no such designated person or persons are still living at the time of the member's death, the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's legal representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

NEW SECTION. **Sec. 3.** A new section is added to chapter 41.35 RCW under the subchapter heading "provisions applicable to plan 2 and plan 3" to read as follows:

(1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member has nominated by written designation duly executed and filed with the department. If no such designated person or persons are still living at the time of the member's death, the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's legal representatives.

1 (2) The benefit under this section shall be paid only where death
2 occurs as a result of injuries sustained in the course of employment.
3 The determination of eligibility for the benefit shall be made
4 consistent with Title 51 RCW by the department of labor and industries.
5 The department of labor and industries shall notify the department of
6 retirement systems by order under RCW 51.52.050.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.04 RCW
8 to read as follows:

9 A one hundred fifty thousand dollar death benefit shall be paid as
10 a sundry claim to the estate of an employee of any state agency, the
11 common school system of the state, or institution of higher education
12 who dies as a result of injuries sustained in the course of employment
13 and is not otherwise provided a death benefit through coverage under
14 their enrolled retirement system. The determination of eligibility for
15 the benefit shall be made consistent with Title 51 RCW by the
16 department of labor and industries. The department of labor and
17 industries shall notify the director of the department of general
18 administration by order under RCW 51.52.050.

--- END ---



Joint Committee on Pension Policy

\$150,000 Death Benefit

Presented December 10, 2001

Revised September 20, 2002

Prepared by: Robert Wm. Baker

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Background:

A duty-related death benefit is paid only where death occurs as a result of injuries sustained in the course of employment. There is also no time limit following the injury in which the death must result.

In 1996 the Legislature passed Engrossed Second Substitute Senate Bill 5322 (Chapter 226, Laws of 1996) which provided an additional \$150,000 duty-related death benefit to survivors of members of LEOFF and WSP.

In 1998 SB 5217 (Chapter 151, laws of 1998) extend the same \$150,000 death benefit coverage to volunteer fire fighters and reserve police officers. Following the passage of this bill, the Governor requested that the JCPP conduct a comprehensive study of duty-related death benefits for public employees. The Governor further requested that the study give consideration to providing an additional duty-death benefit to all public employees.

According to the State Actuary's experience study, there are about 10 duty-related deaths each biennium in the combined PERS, SERS, and TRS systems.

Death Benefits Available:

There are three types of government sponsored death benefits available to public employees outside of the state pension systems.

- Social Security;
- Labor and Industries (L&I);
- Federal Death Benefit;

Labor and Industries Death Benefit

Labor and Industries provides a lump sum for burial expenses together with an ongoing monthly benefit. The monthly benefit is 60% of gross wages plus 2% of gross wages for each dependent. The total monthly payment cannot exceed 120% of the state's average wage -- \$3,723 -- for fiscal year 2002. This benefit is not offset by the Social Security survivor benefit nor is it offset by any other government pension benefit. The benefit does cease upon remarriage.

Social Security Survivor's Benefit

Social Security is paid as a monthly benefit and is available to survivors of both duty and nonduty-related deaths. The benefit amount is based on the earnings of the person who died; the more paid into Social Security, the higher the benefit. The benefit amount is based on a percentage of the deceased's Basic Social Security benefit. The percentage will vary depending on the survivor's age and on the number of surviving dependents. The most typical situations are listed below:

- Widow or widower age 65 or older: 100%
- Widow or widower age 60-64: About 71-94%
- Widow any age with a child under age 16: 75%
- Children: 75%

In general, the Social Security survivor benefit may be reduced or stopped completely if the surviving spouse:

- Returns to work and has earnings in excess of certain limits
- Already receives a Social Security benefit
- Remarries
- No longer has a child under the age of 16

Example
Male age 45 with wages of \$40,000/yr

	<u>Monthly</u>	<u>Annual</u>
Basic Benefit Rate	\$1,311	\$15,732
Spouse under ret age	\$983	\$11,800
Child under 16	\$983	\$11,800
Family Maximum	\$2,341	\$28,100

Public Safety Officers Benefits Program

The Public Safety Officers Benefit Act of 1976 provides a federal duty-death benefit for police officers and fire-fighters who die in the line of duty. This is paid as a lump sum and is available to survivors of policemen and fire fighters only. The size of this benefit does not depend on the income level of the public safety officer prior to his/her death.

1976 - \$50,000

1988 - \$100,000 with a CPI inflator

2002 - \$157,118

Pension Benefits

Aside from the specific death benefits mentioned above, there are also pension-related death benefits. Survivors of LEOFF 1 or WSPRS active members may receive a percent of the members salary plus additional allotments for children to a maximum of 60% of salary in both plans. The survivor of an active LEOFF 2 member may receive the member's earned retirement benefit, if they were eligible, or a refund of 150% of the member's contributions and interest; and if they were not eligible to retire, a refund of the member's contributions plus interest. Active survivor benefits in most other plans are either a refund of the member's contribution and interest if the member was not eligible to retire, or an actuarially reduced benefit if they were eligible.

Budget Language:

Even though this benefit has not passed legislative muster as a stand-alone bill, the language was included in the 2000 supplemental budget and the 2001-2003 budget. In this manner it is not a permanent benefit within the retirement chapter, but rather a temporary benefit that lasts the duration of the budget itself. The payment of a death benefit in this instance is treated as a sundry claim.

Budget Language in ESSB 6153.SL C007 L 01 E2

Sec. 714. DEATH BENEFIT--COMMON SCHOOLS. For the period from July 1, 2001, through June 30, 2003, a one hundred fifty thousand dollar death benefit shall be paid as a sundry claim to the estate of an employee in the common school system of the state who is killed in the course of employment. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the director of the department of general administration by order under RCW 51.52.050.

Sec. 715. DEATH BENEFIT--STATE AGENCIES. For the period from July 1, 2001, through June 30, 2003, a one hundred fifty thousand dollar death benefit shall be paid as a sundry claim to the estate of an employee of any state agency or higher education institution not otherwise provided a death benefit through coverage under their enrolled retirement system. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the director of the department of general administration by order under RCW 51.52.050.

JCPP Recommendation:

A \$150,000 death benefit should be provided to survivors of PERS, SERS, and TRS plan members and survivors of employees of any state agency, the common school system of the state, or institution of higher education who die as a result of injuries sustained in the course of employment.

Fiscal Impact:

See Fiscal Note.

TRS 1 Extended School Year

Issue:

Members of the Teachers' Retirement System, plan 1 (TRS plan 1) base their retirement benefit on their years of service credit multiplied by their average earnable compensation in their two highest compensated consecutive years, up to a maximum of sixty percent. Earnable compensation for TRS plan 1 members is defined as all wages paid to the member for services rendered during a fiscal year, which for teachers runs from July 1 to June 30.

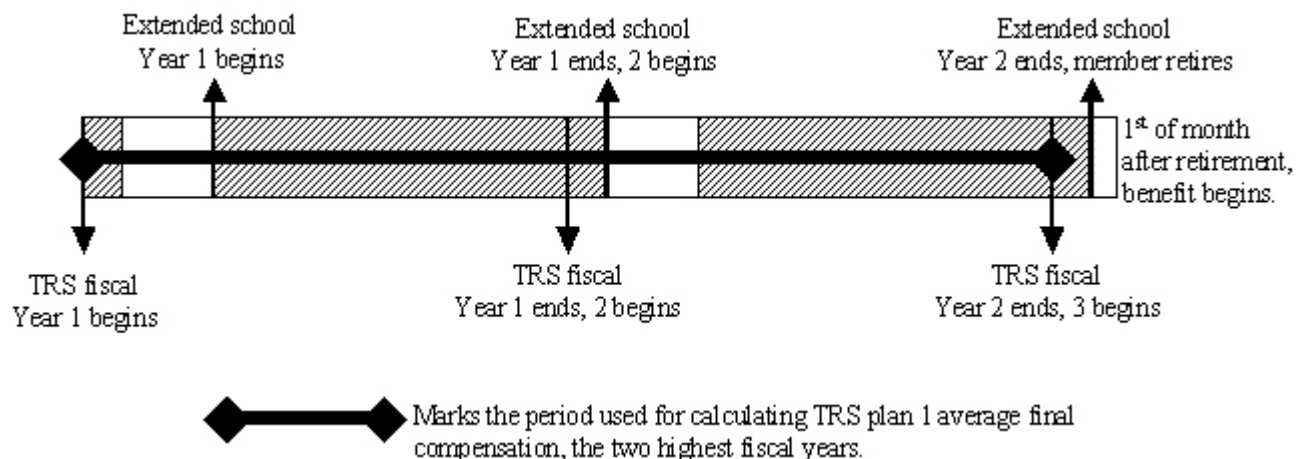
Some teachers work in extended school years which may run until mid July. Recent data supplied by the Superintendent of Public Instruction indicates that about ten school districts have one or more schools that operate on these extended calendars. The difference between the teachers fiscal year and the extended school year may have several effects on TRS plan 1 members benefits.

Analysis:

A. *Extended school year AFC issue*

When members retire in TRS plan 1, RCW 41.32.498 states that their pension allowance shall be equal to their average earnable compensation for their two highest consecutive years of service. RCW 41.32.010(10)(a) specifies that "earnable compensation" is all wages paid for services rendered during the fiscal year.

Illustration of the TRS plan 1 AFC period, Fiscal Year, and an Example Extended School Year



The fiscal year for teachers' runs from July 1st to June 30th of the following year, as set in RCW 41.32.010(12). For teachers that are on a conventional school year schedule, this typically falls in the middle of their summer, as their school year may typically run from late August until mid-June of each year.

A difference in the timing of the end of the statutory fiscal year and the end of the extended school year may result in different earnable compensation amounts for TRS plan 1 members whose annual salary is the same, depending on whether they teach on traditional or extended school-year calendars.

If a TRS plan 1 member retires at the end of an extended school year that runs beyond the end of the fiscal year, the highest two consecutive school years of compensation may not include the final weeks of their career compensation - these fall into a fiscal year during which the member worked only a short period of time.

The Impact of Extended School Year "Look-back" on TRS plan 1 Pension for a typical 2001 retiree

	Conventional School Year		Extended School Year		Difference in Pension amount
Retirement Date	7/1/01		8/1/01		-
AFC - using look-back on final two weeks of extended year pay.	\$53,426		\$53,201		\$225 in AFC
Annual (monthly) pension for 15 years of service	\$16,028	(\$1336)	\$15,961	(\$1330)	\$67 (\$5.60)
Annual (monthly) pension for 30 years of service	\$32,055	(\$2671)	\$31,921	(\$2660)	\$134 (\$11.20)

Instead of these last two weeks, the member includes the two weeks from the "beginning" of the fiscal year - the end of their extended school year - from the year before last. This process of including the weeks taught in the prior school year, but in one of the member's two highest fiscal years that are used for calculating their average final compensation (AFC), is often referred to as the "look-back" process.

As illustrated on the table "The Impact of Extended School Year "Look-back" a teacher who retires" with a typical AFC of about \$53,000 and 30 years of service, the effect of the look-back during years of average salary increases the effect could be to reduce their monthly pension amount by approximately \$11. For a similarly situated teacher with fifteen years of service, that amount would be half, or about \$6.

In plan 2/3 the rules for application and the effective date of retirement negate any difference for teachers on conventional school year calendars or extended school year calendars. This is because the allowance in plan 2 and 3 is calculated on the basis of the "average final compensation" for plan 2 and 3 members, defined as the member's average earnable compensation over the member's highest consecutive sixty service credit months.

This monthly determination in plan 2/3, rather than the annual fiscal year determination in plan 1 effectively eliminates the effects of the extended school year on members of the newer plans.

B. *One Month Later Start to Retirement Benefit - Plan 1*

For a conventional school year TRS 1 teacher that finishes their final contract in mid-June, retirement benefits may begin on July 1st of that year. This is consistent with the rule that benefits begin payment on the first of the month following the month in which the member terminates service. This rule is contained in WAC 415-112-520, interpreting RCW 41.32.480.

Because they retire one month later, teachers similarly situated except for one being in an extended school year program would in a sense receive one less benefit payment during their initial year of retirement. In the above example this amount would be about \$2660 for a teacher with 30 years of service.

In plan 2 and plan 3, a teacher typically does not start their benefit until the September following their retirement, regardless of whether their final school year ends in June or July. The fiscal year definition used in TRS 1 is not used for pensions in the newer plans. A teacher from these plans does not receive service credit for the entire school year, and therefore a reduced benefit, unless their retirement begins at the end of the school year - September through August.

C. *Possible Approach*

TRS plan 1 teachers in extended school year programs could have their average final compensation calculated on the greater of either the current formula of their two highest consecutive fiscal years, or the two highest consecutive extended school years as defined by their school district. This would account for the possible adverse effect of the fiscal year determination on their benefits, but would not address the issue of their benefit starting one month later than conventional school year TRS plan 1 members.

D. *Executive Committee Proposal*

Permit TRS plan 1 teachers in extended school year programs to have either two consecutive fiscal years or two consecutive extended school years, as defined by their school districts, used in the calculation of their average final compensation.

Copy of Z-0149.1/03 by LL:ads provided on 10/8/02.

Brief Description: Allowing members of the teachers' retirement system plan 1 to use extended school years for calculation of their earnable compensation.

Page and line numbering may vary depending on the printer used.

ELECTRONIC TRANSMITTAL

1 AN ACT Relating to allowing members of the teachers' retirement
2 system plan 1 to use extended school years for calculation of their
3 earnable compensation; and amending RCW 41.32.010.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 41.32.010 and 1997 c 254 s 3 are each amended to read
6 as follows:

7 As used in this chapter, unless a different meaning is plainly
8 required by the context:

9 (1)(a) "Accumulated contributions" for plan 1 members, means the
10 sum of all regular annuity contributions and, except for the purpose of
11 withdrawal at the time of retirement, any amount paid under RCW
12 41.50.165(2) with regular interest thereon.

13 (b) "Accumulated contributions" for plan 2 members, means the sum
14 of all contributions standing to the credit of a member in the member's
15 individual account, including any amount paid under RCW 41.50.165(2),
16 together with the regular interest thereon.

17 (2) "Actuarial equivalent" means a benefit of equal value when

1 computed upon the basis of such mortality tables and regulations as
2 shall be adopted by the director and regular interest.

3 (3) "Annuity" means the moneys payable per year during life by
4 reason of accumulated contributions of a member.

5 (4) "Member reserve" means the fund in which all of the accumulated
6 contributions of members are held.

7 (5)(a) "Beneficiary" for plan 1 members, means any person in
8 receipt of a retirement allowance or other benefit provided by this
9 chapter.

10 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
11 in receipt of a retirement allowance or other benefit provided by this
12 chapter resulting from service rendered to an employer by another
13 person.

14 (6) "Contract" means any agreement for service and compensation
15 between a member and an employer.

16 (7) "Creditable service" means membership service plus prior
17 service for which credit is allowable. This subsection shall apply
18 only to plan 1 members.

19 (8) "Dependent" means receiving one-half or more of support from a
20 member.

21 (9) "Disability allowance" means monthly payments during
22 disability. This subsection shall apply only to plan 1 members.

23 (10)(a) "Earnable compensation" for plan 1 members, means:

24 (i) All salaries and wages paid by an employer to an employee
25 member of the retirement system for personal services rendered during
26 a fiscal year. In all cases where compensation includes maintenance
27 the employer shall fix the value of that part of the compensation not
28 paid in money.

29 (ii) For an employee member of the retirement system teaching in an
30 extended school year program, two consecutive extended school years, as
31 defined by the employer school district, may be used as the annual
32 period for determining earnable compensation in lieu of the two fiscal
33 years.

34 (iii) "Earnable compensation" for plan 1 members also includes the
35 following actual or imputed payments, which are not paid for personal
36 services:

37 (A) Retroactive payments to an individual by an employer on
38 reinstatement of the employee in a position, or payments by an employer

1 to an individual in lieu of reinstatement in a position which are
2 awarded or granted as the equivalent of the salary or wages which the
3 individual would have earned during a payroll period shall be
4 considered earnable compensation and the individual shall receive the
5 equivalent service credit.

6 (B) If a leave of absence, without pay, is taken by a member for
7 the purpose of serving as a member of the state legislature, and such
8 member has served in the legislature five or more years, the salary
9 which would have been received for the position from which the leave of
10 absence was taken shall be considered as compensation earnable if the
11 employee's contribution thereon is paid by the employee. In addition,
12 where a member has been a member of the state legislature for five or
13 more years, earnable compensation for the member's two highest
14 compensated consecutive years of service shall include a sum not to
15 exceed thirty-six hundred dollars for each of such two consecutive
16 years, regardless of whether or not legislative service was rendered
17 during those two years.

18 (~~((iii))~~) (iv) For members employed less than full time under
19 written contract with a school district, or community college district,
20 in an instructional position, for which the member receives service
21 credit of less than one year in all of the years used to determine the
22 earnable compensation used for computing benefits due under RCW
23 41.32.497, 41.32.498, and 41.32.520, the member may elect to have
24 earnable compensation defined as provided in RCW 41.32.345. For the
25 purposes of this subsection, the term "instructional position" means a
26 position in which more than seventy-five percent of the member's time
27 is spent as a classroom instructor (including office hours), a
28 librarian, or a counselor. Earnable compensation shall be so defined
29 only for the purpose of the calculation of retirement benefits and only
30 as necessary to insure that members who receive fractional service
31 credit under RCW 41.32.270 receive benefits proportional to those
32 received by members who have received full-time service credit.

33 (~~((iv))~~) (v) "Earnable compensation" does not include:

34 (A) Remuneration for unused sick leave authorized under RCW
35 41.04.340, 28A.400.210, or 28A.310.490;

36 (B) Remuneration for unused annual leave in excess of thirty days
37 as authorized by RCW 43.01.044 and 43.01.041.

1 (b) "Earnable compensation" for plan 2 and plan 3 members, means
2 salaries or wages earned by a member during a payroll period for
3 personal services, including overtime payments, and shall include wages
4 and salaries deferred under provisions established pursuant to sections
5 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
6 shall exclude lump sum payments for deferred annual sick leave, unused
7 accumulated vacation, unused accumulated annual leave, or any form of
8 severance pay.

9 "Earnable compensation" for plan 2 and plan 3 members also includes
10 the following actual or imputed payments which, except in the case of
11 (b)(ii)(B) of this subsection, are not paid for personal services:

12 (i) Retroactive payments to an individual by an employer on
13 reinstatement of the employee in a position or payments by an employer
14 to an individual in lieu of reinstatement in a position which are
15 awarded or granted as the equivalent of the salary or wages which the
16 individual would have earned during a payroll period shall be
17 considered earnable compensation, to the extent provided above, and the
18 individual shall receive the equivalent service credit.

19 (ii) In any year in which a member serves in the legislature the
20 member shall have the option of having such member's earnable
21 compensation be the greater of:

22 (A) The earnable compensation the member would have received had
23 such member not served in the legislature; or

24 (B) Such member's actual earnable compensation received for
25 teaching and legislative service combined. Any additional
26 contributions to the retirement system required because compensation
27 earnable under (b)(ii)(A) of this subsection is greater than
28 compensation earnable under (b)(ii)(B) of this subsection shall be paid
29 by the member for both member and employer contributions.

30 (11) "Employer" means the state of Washington, the school district,
31 or any agency of the state of Washington by which the member is paid.

32 (12) "Fiscal year" means a year which begins July 1st and ends June
33 30th of the following year.

34 (13) "Former state fund" means the state retirement fund in
35 operation for teachers under chapter 187, Laws of 1923, as amended.

36 (14) "Local fund" means any of the local retirement funds for
37 teachers operated in any school district in accordance with the
38 provisions of chapter 163, Laws of 1917 as amended.

1 (15) "Member" means any teacher included in the membership of the
2 retirement system. Also, any other employee of the public schools who,
3 on July 1, 1947, had not elected to be exempt from membership and who,
4 prior to that date, had by an authorized payroll deduction, contributed
5 to the member reserve.

6 (16) "Membership service" means service rendered subsequent to the
7 first day of eligibility of a person to membership in the retirement
8 system: PROVIDED, That where a member is employed by two or more
9 employers the individual shall receive no more than one service credit
10 month during any calendar month in which multiple service is rendered.
11 The provisions of this subsection shall apply only to plan 1 members.

12 (17) "Pension" means the moneys payable per year during life from
13 the pension reserve.

14 (18) "Pension reserve" is a fund in which shall be accumulated an
15 actuarial reserve adequate to meet present and future pension
16 liabilities of the system and from which all pension obligations are to
17 be paid.

18 (19) "Prior service" means service rendered prior to the first date
19 of eligibility to membership in the retirement system for which credit
20 is allowable. The provisions of this subsection shall apply only to
21 plan 1 members.

22 (20) "Prior service contributions" means contributions made by a
23 member to secure credit for prior service. The provisions of this
24 subsection shall apply only to plan 1 members.

25 (21) "Public school" means any institution or activity operated by
26 the state of Washington or any instrumentality or political subdivision
27 thereof employing teachers, except the University of Washington and
28 Washington State University.

29 (22) "Regular contributions" means the amounts required to be
30 deducted from the compensation of a member and credited to the member's
31 individual account in the member reserve. This subsection shall apply
32 only to plan 1 members.

33 (23) "Regular interest" means such rate as the director may
34 determine.

35 (24)(a) "Retirement allowance" for plan 1 members, means monthly
36 payments based on the sum of annuity and pension, or any optional
37 benefits payable in lieu thereof.

1 (b) "Retirement allowance" for plan 2 and plan 3 members, means
2 monthly payments to a retiree or beneficiary as provided in this
3 chapter.

4 (25) "Retirement system" means the Washington state teachers'
5 retirement system.

6 (26)(a) "Service" for plan 1 members means the time during which a
7 member has been employed by an employer for compensation.

8 (i) If a member is employed by two or more employers the individual
9 shall receive no more than one service credit month during any calendar
10 month in which multiple service is rendered.

11 (ii) As authorized by RCW 28A.400.300, up to forty-five days of
12 sick leave may be creditable as service solely for the purpose of
13 determining eligibility to retire under RCW 41.32.470.

14 (iii) As authorized in RCW 41.32.065, service earned in an out-of-
15 state retirement system that covers teachers in public schools may be
16 applied solely for the purpose of determining eligibility to retire
17 under RCW 41.32.470.

18 (b) "Service" for plan 2 and plan 3 members, means periods of
19 employment by a member for one or more employers for which earnable
20 compensation is earned subject to the following conditions:

21 (i) A member employed in an eligible position or as a substitute
22 shall receive one service credit month for each month of September
23 through August of the following year if he or she earns earnable
24 compensation for eight hundred ten or more hours during that period and
25 is employed during nine of those months, except that a member may not
26 receive credit for any period prior to the member's employment in an
27 eligible position except as provided in RCW 41.32.812 and 41.50.132;

28 (ii) If a member is employed either in an eligible position or as
29 a substitute teacher for nine months of the twelve month period between
30 September through August of the following year but earns earnable
31 compensation for less than eight hundred ten hours but for at least six
32 hundred thirty hours, he or she will receive one-half of a service
33 credit month for each month of the twelve month period;

34 (iii) All other members in an eligible position or as a substitute
35 teacher shall receive service credit as follows:

36 (A) A service credit month is earned in those calendar months where
37 earnable compensation is earned for ninety or more hours;

1 (B) A half-service credit month is earned in those calendar months
2 where earnable compensation is earned for at least seventy hours but
3 less than ninety hours; and

4 (C) A quarter-service credit month is earned in those calendar
5 months where earnable compensation is earned for less than seventy
6 hours.

7 (iv) Any person who is a member of the teachers' retirement system
8 and who is elected or appointed to a state elective position may
9 continue to be a member of the retirement system and continue to
10 receive a service credit month for each of the months in a state
11 elective position by making the required member contributions.

12 (v) When an individual is employed by two or more employers the
13 individual shall only receive one month's service credit during any
14 calendar month in which multiple service for ninety or more hours is
15 rendered.

16 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
17 sick leave may be creditable as service solely for the purpose of
18 determining eligibility to retire under RCW 41.32.470. For purposes of
19 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
20 to two service credit months. Use of less than forty-five days of sick
21 leave is creditable as allowed under this subsection as follows:

22 (A) Less than eleven days equals one-quarter service credit month;

23 (B) Eleven or more days but less than twenty-two days equals one-
24 half service credit month;

25 (C) Twenty-two days equals one service credit month;

26 (D) More than twenty-two days but less than thirty-three days
27 equals one and one-quarter service credit month;

28 (E) Thirty-three or more days but less than forty-five days equals
29 one and one-half service credit month.

30 (vii) As authorized in RCW 41.32.065, service earned in an out-of-
31 state retirement system that covers teachers in public schools may be
32 applied solely for the purpose of determining eligibility to retire
33 under RCW 41.32.470.

34 (viii) The department shall adopt rules implementing this
35 subsection.

36 (27) "Service credit year" means an accumulation of months of
37 service credit which is equal to one when divided by twelve.

1 (28) "Service credit month" means a full service credit month or an
2 accumulation of partial service credit months that are equal to one.

3 (29) "Teacher" means any person qualified to teach who is engaged
4 by a public school in an instructional, administrative, or supervisory
5 capacity. The term includes state, educational service district, and
6 school district superintendents and their assistants and all employees
7 certificated by the superintendent of public instruction; and in
8 addition thereto any full time school doctor who is employed by a
9 public school and renders service of an instructional or educational
10 nature.

11 (30) "Average final compensation" for plan 2 and plan 3 members,
12 means the member's average earnable compensation of the highest
13 consecutive sixty service credit months prior to such member's
14 retirement, termination, or death. Periods constituting authorized
15 leaves of absence may not be used in the calculation of average final
16 compensation except under RCW 41.32.810(2).

17 (31) "Retiree" means any person who has begun accruing a retirement
18 allowance or other benefit provided by this chapter resulting from
19 service rendered to an employer while a member.

20 (32) "Department" means the department of retirement systems
21 created in chapter 41.50 RCW.

22 (33) "Director" means the director of the department.

23 (34) "State elective position" means any position held by any
24 person elected or appointed to state-wide office or elected or
25 appointed as a member of the legislature.

26 (35) "State actuary" or "actuary" means the person appointed
27 pursuant to RCW 44.44.010(2).

28 (36) "Substitute teacher" means:

29 (a) A teacher who is hired by an employer to work as a temporary
30 teacher, except for teachers who are annual contract employees of an
31 employer and are guaranteed a minimum number of hours; or

32 (b) Teachers who either (i) work in ineligible positions for more
33 than one employer or (ii) work in an ineligible position or positions
34 together with an eligible position.

35 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,
36 through September 1, 1991, means a position which normally requires two
37 or more uninterrupted months of creditable service during September
38 through August of the following year.

1 (b) "Eligible position" for plan 2 and plan 3 on and after
2 September 1, 1991, means a position that, as defined by the employer,
3 normally requires five or more months of at least seventy hours of
4 earnable compensation during September through August of the following
5 year.

6 (c) For purposes of this chapter an employer shall not define
7 "position" in such a manner that an employee's monthly work for that
8 employer is divided into more than one position.

9 (d) The elected position of the superintendent of public
10 instruction is an eligible position.

11 (38) "Plan 1" means the teachers' retirement system, plan 1
12 providing the benefits and funding provisions covering persons who
13 first became members of the system prior to October 1, 1977.

14 (39) "Plan 2" means the teachers' retirement system, plan 2
15 providing the benefits and funding provisions covering persons who
16 first became members of the system on and after October 1, 1977, and
17 prior to July 1, 1996.

18 (40) "Plan 3" means the teachers' retirement system, plan 3
19 providing the benefits and funding provisions covering persons who
20 first become members of the system on and after July 1, 1996, or who
21 transfer under RCW 41.32.817.

22 (41) "Index" means, for any calendar year, that year's annual
23 average consumer price index, Seattle, Washington area, for urban wage
24 earners and clerical workers, all items compiled by the bureau of labor
25 statistics, United States department of labor.

26 (42) "Index A" means the index for the year prior to the
27 determination of a postretirement adjustment.

28 (43) "Index B" means the index for the year prior to index A.

29 (44) "Index year" means the earliest calendar year in which the
30 index is more than sixty percent of index A.

31 (45) "Adjustment ratio" means the value of index A divided by index
32 B.

33 (46) "Annual increase" means, initially, fifty-nine cents per month
34 per year of service which amount shall be increased each July 1st by
35 three percent, rounded to the nearest cent.

36 (47) "Member account" or "member's account" for purposes of plan 3
37 means the sum of the contributions and earnings on behalf of the member
38 in the defined contribution portion of plan 3.

1 (48) "Separation from service or employment" occurs when a person
2 has terminated all employment with an employer.

3 (49) "Employed" or "employee" means a person who is providing
4 services for compensation to an employer, unless the person is free
5 from the employer's direction and control over the performance of work.
6 The department shall adopt rules and interpret this subsection
7 consistent with common law.

--- END ---

FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	1/16/02	HB 2395/SB 6382

SUMMARY:

This bill impacts the Teachers Retirement System (TRS), the Public Employees Retirement System (PERS) and the School Employees Retirement System (SERS) by providing a \$150,000 death benefit, where death occurs as a result of injuries sustained in the course of employment.

Effective Date: 90 days after session.

BACKGROUND DISCUSSION:

This benefit is currently provided in the Law Enforcement Officers and Fire Fighters Retirement System, and the Washington State Patrol Retirement System, and by PERS for security personnel of the states' ports or universities.

MEMBERS IMPACTED:

We estimate that all the 63,858 active members of TRS, the 152,261 active members of PERS, and the 47,725 active members of SERS would be affected by this bill by being provided death benefit coverage, but few would die and actually receive this benefit.

We estimate that there will be .5 eligible death in TRS, 4.0 eligible deaths in PERS and 1.2 eligible death in SERS each year, and that for a typical member impacted by this bill, the increase in benefits would be \$150,000.

FISCAL IMPACT:

Actuarial Determinations:

The bill will impact the actuarial funding of TRS, PERS and SERS differently.

The bill will impact the actuarial funding of TRS, PERS and SERS by increasing the present value of benefits payable under the System as shown below. However, the increase in benefits is insufficient to increase the required actuarial contribution rate of TRS or PERS.

The employer and employee split the cost of this benefit in plan 2, while the cost in plans 1 & 3 is paid by the employer. As members transfer to plan 3 this cost will shift from the employer/employee to the employer. For SERS 2/3 this means the employer cost will increase from slightly less than .01% to somewhat more than .01%. For PERS 2/3 this means the cost will increase from somewhat more than .00% to slightly less than .01%. Because this change depends on the number of transfers and its impact is small, it is not reflected in the budget impact below.

<i>(Dollars in Millions)</i>	System	Current	Increase	Total
Actuarial Present Value of Projected Benefits	TRS 2/3	\$ 3,826	\$ 0.5	\$3,827
The Value of the Total Commitment to all	TRS 1	10,234	0.1	10,234
Current Members	PERS 2/3	11,890	3.5	11,894
	PERS 1	12,367	0.4	12,367
	SERS 2/3	1,963	1.2	1,964
Unfunded Actuarial Accrued Liability	TRS 2/3	N/A	N/A	N/A
The Portion of the Plan 1 Liability that is	TRS 1	\$ 479	\$ 0.1	\$ 479
Amortized until 2024	PERS 2/3	N/A	N/A	N/A
	PERS 1	852	0.4	852
	SERS 2/3	N/A	N/A	N/A
Unfunded Liability (PBO)	TRS 2/3	\$ (1,596)	\$ 0.3	\$ (1,596)
The Value of the Total Commitment to all	TRS 1	4	0.1	4
Current Members Attributable to Past	PERS 2/3	(5,078)	2.0	(5,076)
Service	PERS 1	227	0.4	227
	SERS 2/3	(762)	0.7	(761)
Required Contribution Rate	TRS	2.38%	.00%	2.38%
	PERS	1.63%	.00%	1.63%
	SERS 2/3	1.22%	.01%	1.23%

Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

Effective September 1, 2002	
Increase in Contribution Rates:	SERS 2/3
Employee (SERS 2 only)	.01%
Employer State	.01%
Costs (in Millions):	
2002-2003	
State:	
General Fund	\$.1
Non-General Fund	0
Total State	\$.1
Local Government	\$.0

2002-2005**State:**

General Fund	\$.2
Non-General Fund	<u>0</u>
Total State	\$.2
Local Government	\$.2

2002-2027

General Fund	\$ 3.5
Non-General Fund	<u>0</u>
Total State	\$ 3.5
Local Government	\$ 3.1

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal bill are based on our understanding of the bill as well as generally accepted actuarial practices including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the December 31, 2000 actuarial valuation report of the Public Employees Retirement System and the June 30, 2000 actuarial valuation report of the Teachers Employees Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

Based on a prior study, it is assumed that eligible deaths will occur at the rate of 0.5 per year for TRS, 3.9 per year for PERS and 1.2 per year for SERS. The deaths in PERS and SERS were split in portion of the number of members. This is equivalent to a death rate of .0026% for SERS and PERS and .0008% for TRS.

4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2002 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2 utilizes the Aggregate Funding Method. The cost of Plan 2 is spread over the average working lifetime of the current active Plan 2 members.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions.

Projected Benefits: Pension benefit amounts which are expected to be paid in the taking into account such items as the effect of advancement in age and past and anticipated future compensation and service credits.

Unfunded Actuarial Accrued Liability (UAAL): The cost of Plan 1 is divided into two pieces. The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL. The UAAL is paid for by employers as a percent of the salaries of all plan 1, 2 and 3 members until the year 2024.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.